



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, जनवार, ३१ मई, १९६९/ १० ज्येष्ठ, १९६९

GOVERNMENT OF HIMACHAL PRADESH
VIDHAN SABHA SECRETARIAT
NOTIFICATION

Simla-4, the 7th April, 1969

No. 1-9/69-VS.—In pursuance of Rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1964, the following Bills as introduced in the Legislative Assembly on the 7th April, 1969 are hereby published in the Himachal Pradesh Government Gazette :—

1. The Himachal Pradesh Police (Protection of Railways) Bill, 1969 (Bill No. 8 of 1969).
2. The Himachal Pradesh Armed Bands (Arrest and Detention) Bill, 1969 (Bill No. 9 of 1969).
3. The Usurious Loans (Himachal Pradesh Amendment) Bill, 1969 (Bill No. 10 of 1969).

4. The Provincial Insolvency (Himachal Pradesh Amendment) Bill, 1969 (Bill No. 11 of 1969).
5. The Suits Valuation (Himachal Pradesh Amendment) Bill, 1969 (Bill No. 12 of 1969).
6. The Himachal Pradesh Registration of Hotels and Travel Agents Bill, 1969 (Bill No. 13 of 1969).
7. The Himachal Pradesh Habitual Offenders Bill, 1969 (Bill No. 14 of 1969).
8. The Indian Stamp (Himachal Pradesh Amendment) Bill, 1969 (Bill No. 15 of 1969).
9. The Himachal Pradesh Shops and Commercial Establishments Bill, 1969 (Bill No. 19 of 1969).

SURENDRANATH,
Under Secretary.

Bill No. 8 of 1969

**THE HIMACHAL PRADESH POLICE (PROTECTION OF RAILWAYS)
BILL, 1969**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A
BILL

to provide enhanced punishments for certain derelictions of duty by members of the police forces.

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Police (Protection of Railways) Act, 1969.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. It shall be an offence punishable under this Act for any member of a police force whose duty for the time being is to protect from acts of violence any passenger or goods being conveyed upon any railway (as defined in the Indian Railways Act, 1890), to fail in the proper performance of that duty, and notwithstanding anything to the contrary contained in any law or order for the time being in force regulating discipline in the police force of which he is a member but without prejudice to any other punishment to which he may be liable thereunder, such member of a police force shall be liable, on conviction for such offence by a competent criminal court, to be punished with rigorous imprisonment for a term which may extend to ten years or, if on the occasion of this offence any loss of human life occurs, with death or imprisonment for life or rigorous imprisonment for a period which may extend to ten years.

3. The East Punjab Police (Protection of Railways) Act, 1947, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, is hereby repealed:

Provided that anything done or any action taken or any proceedings commenced or continued under the said Act shall be deemed to have been done, taken, commenced or continued under the corresponding provision of this Act.

Short title,
extent and
commencement.

Enhanced
punishments
of derelictions
of duty by
police in
certain
circumstances.

9 of 1890

12 of 1947

31 of 1966

Repeal and
savings.

STATEMENT OF OBJECTS AND REASONS

The East Punjab Police (Protection of Railways) Act, 1947, which provides for enhanced punishments for certain derelictions of duty by members of the police forces, is in force in the areas transferred to Himachal Pradesh, under section 5 of the Punjab Re-organisation Act, 1966. But no such law is in force in the old areas of Himachal Pradesh. With a view to bringing about uniformity in the matter of such law, it has been considered necessary to enact a unified law on the subject for the whole of Himachal Pradesh, and this Bill seeks to achieve the object.

SIMLA:
The 7th April, 1969.

Y. S. PARMAR,
Chief Minister.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM ON DELEGATED LEGISLATION

Nil

Bill No. 9 of 1969

THE HIMACHAL PRADESH ARMED BANDS (ARREST AND DETENTION) BILL, 1969

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to provide for the arrest and punishment of members of armed bands.

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Armed Bands (Arrest and Detention) Act, 1969.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force in such areas and on such date or dates as the State Government may, by notification, direct in this behalf.

2. (1) In this Act, unless there is anything repugnant in the subject or context,—

(a) "Arms" has the meaning given to it in the Arms Act, 1959 and includes any weapon or thing capable of being used as weapon, which if used for offence, is likely to cause grievous hurt or death, but does not include licensed arm or arms for which no licence under the provisions of the said Act or the rules made thereunder, is required;

(b) "Armed Band" means any assembly or group of five or more persons, all or any of whom carry or carries arms:

Provided that no public servant, who carries any arms in pursuance of his duties as such public servant, shall be treated as member of an armed band;

(c) "The Code" means the Code of Criminal Procedure, 1898;

(d) "Detention Camp" means any camp established by or under the authority of State Government for the detention of persons contravening any of the provisions of this Act;

(e) "Grievous hurt" has the meaning given to it in section 320 of the Indian Penal Code, 1860;

(f) "Public servant" has the meaning given to it in section 21 of the Indian Penal Code, 1860;

(g) "State Government" means the Government of Himachal Pradesh.

(2) Words and expressions used but not defined in this Act, shall have the meanings assigned to them in the Code.

3. (1) Any Magistrate and any Police Officer not below the rank of Station House Officer may arrest without warrant any member of an armed band, and if resistance is offered to the arrest, may fire upon or otherwise use force, even to the causing of death, in order to effect such arrest.

(2) The procedure laid down in sections 41 to 53 of the Code shall be, as far as may be, applicable to arrests effected under sub-section (1).

4. (1) The Officer effecting the arrest shall, with all convenient speed, take or send the arrested person to the officer in-charge of the nearest detention camp.

Short title,
extent and
commencement.

Definitions.

54 of 1959

Power to
arrest mem-
bers of
armed
bands.

5 of 1898

Procedure
after arrest.

45 of 1860

Procedure
after arrest.

45 of 1860

(2) The officer in-charge of a Detention Camp may pending trial keep the arrested person in detention for a period not exceeding one month.

Power to establish Detention Camps.

5. (1) The State Government, and with the authority of the State Government, the District Magistrate within the area under his jurisdiction may establish Detention Camps.

(2) The State Government may, by general or special order, prescribe the organisation of such camps and determine the conditions as to maintenance, discipline and the punishment of offences and breaches of discipline which shall be applicable to persons kept in custody in such camps.

Offences and penalties.

6. (1) Whoever is a member of an armed band shall, on conviction for such offence by a competent criminal court, be punished with imprisonment of either description which may extend to three years or with fine or with both.

(2) Whoever, being a member of an armed band, resists his arrest by or under the orders of a duly authorised officer shall, on conviction for such offence by a competent criminal court, be punished with imprisonment of either description which may extend to seven years or with fine or with both.

Procedure.

7. Notwithstanding anything to the contrary contained in the Code, any magistrate trying an offence under this Act may, if he thinks fit, try any such offence summarily according to the procedure prescribed in Chapter XXII of the Code.

Offence under the Act to be non-bailable
Special provision regarding bail.

8. Notwithstanding anything contained in the Code, any offence punishable under this Act, shall be non-bailable.

9. Notwithstanding anything contained in the Code, no person accused of an offence made punishable by this Act shall, if in custody, be released on bail or on bond unless,—

- (a) the prosecution has been given an opportunity to oppose the application for such release, and
- (b) where the prosecution opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence.

Jurisdiction barred.

10. No prosecution, suit or other legal proceedings, shall be instituted, except with the previous sanction of State Government, against any person in respect of anything done or purporting to be done in exercise of the powers conferred under sections 3 and 4 of this Act, or under any order made under sub-section (2) of section 5.

Operation of other penal laws not barred.

11. Nothing contained in this Act, shall be deemed to prevent any person from being prosecuted under any other law for any act which constitutes an offence punishable under this Act:

Provided that no person shall be prosecuted and punished for the same offence more than once.

Repeal and savings.

12. East Punjab Armed Bands (Arrest and Detention) Act, 1947 is hereby repealed:

Provided that anything done or any action taken (including any order made, notification or direction issued, detention camp established or proceedings commenced or continued) under any of the provisions of the said Act shall be deemed to have been done or taken under the corresponding provision of this Act.

STATEMENT OF OBJECTS AND REASONS

The East Punjab Armed Bands (Arrest and Detention) Act, 1947, which provides for the arrest and punishment of armed bands, is in force in the areas merged in Himachal Pradesh as a result of the re-organisation of the State of Punjab. But no such law is in force in the areas as comprised in Himachal Pradesh immediately prior to the said re-organisation. With a view to bringing about uniformity in the matter of such law, it has been considered necessary to enact a unified law on the subject for the whole of Himachal Pradesh and this Bill seeks to achieve the object.

SIMLA:
The 7th April, 1969.

Y. S. PARMAR,
Chief Minister.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM ON DELEGATED LEGISLATION

Clause 5 of the Bill empowers the State Government, and with the authority of the State Government, the District Magistrate to establish Detention Camps and it further empowers the State Government to prescribe, by general or special order, the organisation of such camps and to determine the conditions as to maintenance, discipline and the punishment of offences and breaches of discipline which shall be applicable to persons kept in custody in such camps.

**THE USURIOUS LOANS (HIMACHAL PRADESH AMENDMENT)
BILL, 1969**

(As INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to amend the Usurious Loans Act, 1918 (Central Act No. 10 of 1918) in its application to the Union territory of Himachal Pradesh.

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Usurious Loans (Himachal Pradesh Amendment) Act, 1969.

(2) It shall extend to the whole of Himachal Pradesh.

2. In clause (a) of sub-section (3) of section 2 of the Usurious Loans Act, 1918 in its application to Himachal Pradesh, the following words shall be inserted between the words "loan made" and the words "after the commencement of this Act", namely,—

"whether before or".

3. The Usurious Loans (East Punjab Amendment) Act, 1948, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, is hereby repealed:

Provided that anything done or any action taken under the said Act shall be deemed to have been done or taken under this Act.

Short title
and extent.

Amendment
of section 2.

Repeal and
savings.

10 of 1918

4 of 1948

31 of 1966

STATEMENT OF PROVISIONS OF THE PRINCIPAL ACT
AFFECTED BY THIS AMENDMENT BILL

Section	Existing provision in old Himachal Pradesh	Provision as it will stand after the enactment of the Bill
Clause (a) of sub-section (3) of section 2.	<p>(3) "Suit to which this Act applies" means any suit—</p> <p>(a) for the recovery of a loan made after the commencement of this Act; or</p>	<p>(3) "Suit to which this Act applies" means any suit—</p> <p>(a) for the recovery of a loan made <i>whether before or after</i> the commencement of this Act; or</p>

STATEMENT OF OBJECTS AND REASONS

At present, the Usurious Loans Act, 1918 (Central Act No. 10 of 1918), which provides for giving additional powers to courts to deal in certain cases with usurious loans of money or in kind, is in force with different amendments and provisions of laws in the two different areas of Himachal Pradesh, viz., the areas transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, and the areas comprised in Himachal Pradesh immediately before the 1st November, 1966. In the former, the amendment as affected in said Act by the Punjab Act No. 4 of 1948, is in force, while in the latter, no such amendment is in force. With a view to bringing about uniformity in the matter of such law, it has been considered necessary to repeal the amending Act aforesaid and to enact a unified amending law for the whole of Himachal Pradesh. This Bill seeks to achieve the aforesaid object.

SIMLA:

The 7th April, 1969.

KARAM SINGH,

Finance Minister.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM ON DELEGATED LEGISLATION

Nil

**THE PROVINCIAL INSOLVENCY
(HIMACHAL PRADESH AMENDMENT) BILL, 1969**

(As INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A
BILL

to amend the Provincial Insolvency Act, 1920 (Central Act No. 5 of 1920), in its application to the Union territory of Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Provincial Insolvency (Himachal Pradesh Amendment) Act, 1969. Short title and extent.

(2) It extends to the whole of Himachal Pradesh.

2. After sub-section (2) of section 60 of the Provincial Insolvency Act, 1920, the following new sub-section shall be added:—

“(3) In particular, and without prejudice to the generality of sub-section (2), when the whole or any part of the estate of an insolvent consists of land as defined in the Punjab Tenancy Act, 1887, or the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1954, as the case may be, no such land shall be temporarily alienated by the receiver; but after the other property of the insolvent has been realised, the court shall proceed in the manner provided in sub-section (1), and the Collector shall thereupon proceed to raise the amount required by means of a temporary alienation in such form and for such period as may be legally permissible and as he thinks fit; and shall hold at the disposal of the court all sums which may thereby come to his hands:

Provided that such portion of the land shall be exempted from alienation as in the opinion of the Collector, having regard to the income of the judgment-debtor from all sources except such income as is dependent on the will of another person, is sufficient to provide for the maintenance of the insolvent and the members of his family who are dependent on him, and such portion shall be deemed not to form part of the estate under administration.”

3. The Provincial Insolvency (Punjab Amendment) Act, 1939, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, is hereby repealed:

Provided that anything done or any action taken under the said Act shall be deemed to have been done or taken under this Act.

Central Act
No. 5 of
1920.

16 of 1887

5 of 1954

Amend-
ment of
section 60
of Central
Act, 5 of
1920.

Repeal and
savings.

30/7/1939

31 of 1966

**STATEMENT OF PROVISIONS OF THE PRINCIPAL ACT
AFFECTED BY THIS AMENDMENT BILL**

Section	Existing provision in old Himachal Pradesh	Provision as it will stand after the enactment of the Bill
Sub-section (3) of section 60.	—	<p>(3) In particular, and without prejudice to the generality of sub-section (2), when the whole or any part of the estate of an insolvent consists of land as defined in the Punjab Tenancy Act, 1887, or the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1954, as the case may be, no such land shall be temporarily alienated by the receiver; but after the other property of the insolvent has been realised, the court shall proceed in the manner provided in sub-section (1), and the Collector shall thereupon proceed to raise the amount required by means of a temporary alienation in such form and for such period as may be legally permissible and as he thinks fit; and shall hold at the disposal of the court all sums which may thereby come to his hands:</p> <p>Provided that such portion of the land shall be exempted from alienation as in the opinion of the Collector, having regard to the income of the judgment-debtor from all sources except such income as is dependent on the will of another person, is sufficient to provide for the maintenance of the insolvent and the members of his family who are dependent on him, and such portion shall be deemed not to form part of the estate under administration.</p>

STATEMENT OF OBJECTS AND REASONS

At present, the Provincial Insolvency Act, 1920 (Central Act No. 5 of 1920) which consolidates and amends the law relating to Insolvency as administered by courts having jurisdiction outside the Presidency-towns, is in force with different amendments and provisions of law in the two different areas of Himachal Pradesh, viz., the areas transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 and the areas comprised in Himachal Pradesh immediately before the 1st November, 1966. In the former, the amendments as affected in the said Act by the Punjab Act No. 3 of 1939 are in force, while in the latter, no such amendments are in force. With a view to bringing about uniformity in the matter of such law, it has been considered necessary to repeal the amending Act aforesaid and to enact a unified amending law for the whole of Himachal Pradesh. This Bill seeks to achieve the aforesaid object.

SIMLA:
The 7th April, 1969.

KARAM SINGH,
Finance Minister.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM ON DELEGATED LEGISLATION

Nil

Bill No. 12 of 1969

**THE SUITS VALUATION
(HIMACHAL PRADESH AMENDMENT) BILL, 1969**

(As INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A
BILL

to amend the Suits Valuation Act, 1887, in its application to the Union territory of Himachal Pradesh.

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Suits Valuation (Himachal Pradesh Amendment) Act, 1969.

(2) It extends to the whole of Himachal Pradesh.

2. In sub-section (1) of section 3, and sections 8 and 9 of the Suits Valuation Act, 1887, in its application to Himachal Pradesh (hereinafter referred to as the principal Act), for the expression “the Court-fees Act, 1870”, wherever it occurs, the expression “the Himachal Pradesh Court Fees Act, 1968” shall be substituted.

3. In section 4 of the principal Act, for the expression “the Court-fees Act, 1870, section 7, paragraph (iv), or Schedule II, article 17”, the expression “the Himachal Pradesh Court Fees Act, 1968, section 7, paragraph (iv), or Schedule II, article 13 or 18” shall be substituted.

4. To sub-section (1) of section 11 of the principal Act, the following proviso shall be added, namely:—

“provided that in a suit for accounts, the value for the purposes of jurisdiction as determined by the court at any stage of the trial shall be final and conclusive and shall not be liable to be contested in appeal or revision.”

5. The Suits Valuation (Punjab Amendment) Act, 1938 and the Suits Valuation (Punjab Amendment) Act, 1942 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, are hereby repealed:

Provided that anything done or any action taken thereunder shall be deemed to have been done or taken under this Act.

Short title
and extent.

Amendment
of sections
3, 8 and 9.

Amendment
of section 4.

Addition of
a proviso
to section
11 (1).

Repeal and
savings.

Central Act
No. 7 of
1887.

1 of 1938
13 of 1942

31 of 1966

STATEMENT OF PROVISIONS OF THE PRINCIPAL ACT
AFFECTED BY THIS AMENDMENT BILL

Section	Existing provision in old Himachal Pradesh	Provision as it will stand after the enactment of the Bill
1	2	3
Sub-section (1) of section 3.	The Provincial Government may make rules for determining the value of land for purposes of jurisdiction in the suits mentioned in the <i>Court-fees Act, 1870</i> , section 7, paragraphs (v) and (vi) and paragraph (x), clause (d).	The Provincial Government may make rules for determining the value of land for purposes of jurisdiction in the suits mentioned in the <i>Himachal Pradesh Court Fees Act, 1968</i> , section 7, paragraphs (v) and (vi) and paragraph (x), clause (d).
Section 4	Where a suit mentioned in the <i>Court-fees Act, 1870</i> , section 7, paragraph (iv), or <i>Schedule II, article 17</i> , relates to land or an interest in land of which the value has been determined by rules under the last foregoing section, the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land or interest as determined by those rules.	Where a suit mentioned in the <i>Himachal Pradesh Court Fees Act, 1968</i> , section 7, paragraph (iv), or <i>Schedule II, article 13</i> or 18 relates to land or an interest in land of which the value has been determined by rules under the last foregoing section, the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land or interest as determined by those rules.
Section 8	Where in suits other than those referred to in the <i>Court-fees Act, 1870</i> , section 7, paragraphs (v), (vi) and (ix) and paragraph (x), clause (d), court-fees are payable advalorem under the <i>Court-fees Act, 1870</i> , the value as determinable for the computation of court-fees and the value or purposes of jurisdiction shall be the same.	Where in suits other than those referred to in the <i>Himachal Pradesh Court Fees Act, 1968</i> , section 7, paragraphs (v), (vi) and (ix) and paragraph (x), clause (d), court-fees are payable advalorem under the <i>Himachal Pradesh Court-fees Act, 1968</i> the value as determinable for the computation of court-fees and the value for purposes of jurisdiction shall be the same.

1

2

3

Section 9

When the subject-matter of suits of any class, other than suits mentioned in the *Court-fees Act, 1870*, section 7, paragraphs (v) and (vi) and paragraph (x), clause (d) is such that in the opinion of the High Court it does not admit of being satisfactorily valued, the High Court may, with the previous sanction of the Provincial Government, direct that suits of that class shall, for the purposes of the *Court-fees Act, 1870*, and of this Act, and any other enactment for the time being in force, be treated as if their subject-matter were of such value as the High Court thinks fit to specify in this behalf.

When the subject-matter of suits of any class, other than suits mentioned in the *Himachal Pradesh Court Fees Act, 1968*, section 7, paragraphs (v) and (vi) and paragraph (x), clause (d) is such that in the opinion of the High Court it does not admit of being satisfactorily valued, the High Court may, with the previous sanction of the Provincial Government, direct that suits of that class shall, for the purposes of the *Himachal Pradesh Court Fees Act, 1968*, and of this Act and any other enactment for the time being in force, be treated as if their subject-matter were of such value as the High Court thinks fit to specify in this behalf.

Sub-section (1) of section 11.

Notwithstanding anything in section 99 of the Code of Civil Procedure, an objection that by reason of the over-valuation or under-valuation of a suit or appeal a Court of first instance or lower appellate Court which had not jurisdiction with respect to the suit or appeal exercised jurisdiction with respect thereto shall not be entertained by an appellate Court unless—

(a) the objection was taken in the Court of first instance at or before the hearing at which issues were first framed and recorded, or in the lower appellate Court in the memorandum

Notwithstanding anything in section 99 of the Code of Civil Procedure, an objection that by reason of the over-valuation or under-valuation of a suit or appeal a Court of first instance or lower appellate Court which had not jurisdiction with respect to the suit or appeal exercised jurisdiction with respect thereto shall not be entertained by an appellate Court unless—

(a) the objection was taken in the Court of first instance at or before the hearing at which issues were first framed and recorded, or in the lower appellate Court in the memorandum of

1

2

3

of appeal to that
Court, or

(b) the appellate Court is satisfied, for reasons to be recorded by it in writing, that the suit or appeal was over-valued or under-valued and that the over-valuation or under-valuation thereof has prejudicially affected the disposal of the suit or appeal on its merits.

appeal to that Court,
or

(b) the appellate Court is satisfied, for reasons to be recorded by it in writing, that the suit or appeal was over-valued or under-valued and that the over-valuation or under-valuation thereof has prejudicially affected the disposal of the suit or appeal on its merits.

Provided that in a suit for accounts, the value for the purposes of jurisdiction as determined by the Court at any stage of the trial shall be final and conclusive and shall not be liable to be contested in appeal or revision.

STATEMENT OF OBJECTS AND REASONS

At present, the Suits Valuation Act, 1887 (Central Act No. 7 of 1887) which prescribes the mode of valuing certain suits for the purpose of determining the jurisdiction of courts with respect thereto, is in force with different amendments and provisions of law in the two different areas of Himachal Pradesh, viz., the areas transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 and the areas comprised in Himachal Pradesh immediately before the 1st November, 1966. In the former, the amendments as affected in the said Act by the Punjab Acts 1 of 1938 and 13 of 1942, are in force, while in the latter no such amendments are in force. With a view to bringing about uniformity in the matter of such law, it has been considered necessary to repeal the amending Acts aforesaid and to enact a unified amending law for the whole of Himachal Pradesh. This Bill seeks to achieve the aforesaid object.

SIMLA:

The 7th April, 1969.

KARAM SINGH,

Finance Minister.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM ON DELEGATED LEGISLATION

Nil

THE HIMACHAL PRADESH REGISTRATION OF HOTELS AND TRAVEL AGENTS BILL, 1969

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A
BILL

to provide facilities to the tourists and to register persons dealing with them and for matters connected therewith.

Be it enacted by the Himachal Pradesh Legislative Assembly in the Twentieth Year of the Republic of India as follows:—

PART I

PRELIMINARY

1. (1) This Act may be called the Himachal Pradesh Registration of Hotels and Travel Agents Act, 1969.

Short title,
extent and
commencement.

(2) It shall extend to the whole of Himachal Pradesh.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

(4) This Act supersedes any other previous legislation, rules or bye-laws in this behalf made by Government or by a local authority.

Exemptions.

2. (1) This Act shall not apply to Hotel, Tourist Rest House, Dak Bungalow, Serai, Inn or any institution or premises run by Government or a local authority.

(2) The Government may direct that all or any of the provisions of this Act shall not, subject to such conditions and terms as it may specify, apply generally:—

(i) to premises used for a public purpose of a charitable nature or to any class of premises used for such purposes;

(ii) to premises held by a public trust for a religious or charitable purposes and let at a nominal rent; or

(iii) to premises held by a public trust for a religious or charitable purpose and administered by a local authority.

(3) The Government may also by order direct that all or any of the provisions of Part II shall not apply to such hotels or institutions, or such class of hotels or institutions subject to such terms and conditions, if any, as may be specified in the order.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

(a) 'certificate of registration' means a certificate issued under this Act;

(b) 'hotel' means any premises or part of premises where lodging (for at least 5 persons in at least three rooms or three tents) with or without board is provided at one place for a monetary consideration;

(c) 'hotel-keeper' means any person who operates a hotel as proprietor and includes a person managing the affairs of a hotel on behalf of the proprietor;

- (d) 'mal-practice' includes cheating, charging a price higher than that displayed or remuneration higher than that fixed under this Act, failure to display prices, failure to give cash memos, failure to execute an order according to the terms agreed or within a reasonable time after the expiry of the period for performance of the obligation, not providing accommodation when available, or charging rent higher than fixed;
- (e) 'Official Gazette' means the Rajpatra, Himachal Pradesh;
- (f) 'part' means a part of this Act;
- (g) 'prescribed' means prescribed by rules made under this Act;
- (h) 'prescribed authority' means the authority notified as such by the Government;
- (i) 'Government' means the Government of Himachal Pradesh;
- (j) 'local authority' means the Deputy Commissioner, Municipal Committee, Small Town Committee, Notified Area Committee, Panchayat and Public Trust in respective sphere of jurisdiction;
- (k) 'tourist area' means any area notified by the Government in the Official Gazette to be a tourist area for the purposes of this Act;
- (l) 'season' means the period from September 16 to June 30. Rest of the period of the year will constitute 'off season';
- (m) 'travel agent' means a person engaged in the business of making travel arrangements for tourists for a monetary consideration and includes a tourist guide and a Shikar outfitter.

Explanation.—The expression "travel arrangements" includes:—

- (a) arrangements for transportation;
- (b) arrangements for lodging with or without board; and
- (c) rendering other services, such as assistance for providing convenience for game and sports.

PART II

REGISTRATION OF HOTELS

Registration.

4. (1) Every person intending to operate a hotel in a tourist area shall, before operating a hotel, apply for registration to the prescribed authority in the prescribed manner.

(2) Notwithstanding anything contained in sub-section (1), any person already operating a hotel in a tourist area on the date a notification under clause (k) of section 3 of Part I is issued, shall apply for registration within three months from the aforesaid date.

Certificate of registration.

5. The prescribed authority shall, unless registration is refused under section 6 direct the entry of the name and particulars of the hotel and the hotel-keeper to be entered on the register maintained for the purpose and issue a certificate of registration to the hotel-keeper in the prescribed manner.

Refusal to register a hotel.

6. The prescribed authority may refuse registration of a hotel under this Act on any of the following grounds, namely:—

- (a) if the hotel-keeper is convicted of any offence under the following Acts or under any provision of this Act and two years have not elapsed since the termination of the sentence imposed upon him:—
 - (i) the Indian Penal Code, 1860 (Chapters XIII, XVI and XVII);
 - (ii) the Prevention of Food Adulteration Act, 1954;
- (b) if the hotel-keeper has been declared an insolvent by a court of competent jurisdiction and has not been discharged; and

(c) if the name of the hotel-keeper has been removed from the register under clause (b) or clause (c) of section 7 and six months have not elapsed since the date of removal:

Provided that no application for registration shall be refused unless the person applying for registration has been allowed an opportunity of being heard.

7. The prescribed authority may, by an order in writing, remove the name of a hotel from the register and cancel its certificate of registration on any of the following grounds, namely:—

- (a) if the hotel-keeper ceases to operate the hotel in the tourist area for which he is registered;
- (b) if the hotel-keeper is convicted of any offence under the following Acts:—
 - (i) the Indian Penal Code, 1860 (Chapters XIII, XVI and XVII);
 - (ii) the Prevention of Food Adulteration Act, 1954;
 - (iii) Suppression of Immoral Traffic in Women and Girls Act of 1956;
- (c) if the hotel-keeper is declared as an insolvent by the court of competent jurisdiction;
- (d) if the hotel-keeper fails to comply with any of the provisions of this Act or rules framed thereunder.

Removal of the name from the register.

45 of 1860
37 of 1954
104 of 1956

8. Before removing a name from the register under section 7, the prescribed authority shall give a notice to the hotel-keeper of the ground on which it is proposed to take action and hold any inquiry in the presence of the hotel-keeper, giving him a reasonable opportunity of showing cause against it.

Notice of removal of name from the register.

9. (a) The prescribed authority may, in consultation with the hotel-keeper, by notification in the Official Gazette, fix a fair rate to be charged for board, lodging or other service provided in a hotel at such amount as, having regard to the circumstances of the case, he deems just (the prescribed authority may also fix the percentage of accommodation of daily, and monthly lodgers respectively in a hotel).

Fixation of rates.

- (b) The prescribed authority shall also fix the number of lodgers to be accommodated in each room or specified accommodation in the hotel.
- (c) The prescribed authority may fix a fair rate which may be different for season and off season period separately for,—
 - (i) lodging with reference to each room or specified accommodation and the number of the lodgers to be accommodated;
 - (ii) board, partial or full; and
 - (iii) other service; and
- (d) The prescribed authority may fix fair rates separately for daily and monthly lodgers.

Explanation:—For the purpose of this part, a lodger who agrees to reserve accommodation in a hotel for a period of less than a month shall be deemed to be a daily lodger.

Revision of fair rates.

10. The prescribed authority may, from time to time, revise the fair rates, the percentage accommodation or the number of lodgers fixed under section 9.

11. Till such time as the prescribed authority has not fixed fair rates, percentage of accommodation and the number of lodgers, as required under section 9 above, the hotel-keeper shall fix and notify these to the prescribed authority by March 31, each year. Separate rates will be fixed for 'season' and 'off season' periods.

Fixation of rates pending such fixation by the prescribed authority.

Display of information.

12. Where under section 9 or section 10 the prescribed authority has fixed or revised the fair rates, the percentage of accommodation or the number of lodgers, or even in case where the prescribed authority has not fixed rates, etc., the hotel-keeper shall display a notice of the fair rates, percentage of accommodation, the number of lodgers and all the provisions of this Act relating thereto in a conspicuous manner in the hotel and also in each room or set of rooms. An agent of the hotel-keeper must also keep a copy certified by the prescribed authority of such information on his person.

Charges recoverable in excess of fair rate.

13. (1) Notwithstanding any agreement to the contrary, no hotel-keeper shall charge any amount in excess of the rates fixed.

(2) Any sum paid by the lodger in excess of the fair rate shall be recoverable by him at any time within six months from the date of payment from the hotel-keeper and may, without prejudice to any other remedy for recovery, be adjustable by such lodger for any amount payable by him to the hotel.

No ejectment to be made if fair rate paid.

14. No hotel-keeper shall evict or refuse board or other service to a lodger so long as he pays or is ready and willing to pay the rate fixed and observes and performs the other conditions of his agreement in so far as they are consistent with the provisions of this Act:

Provided that where under section 9 or section 10, the prescribed authority has fixed or revised the percentage of accommodation for daily and monthly lodgers respectively, the hotel-keeper may refuse accommodation to any daily or monthly lodger if the accommodation in respect of such class of lodgers is fully occupied.

When hotel-keeper may recover possession.

15. Notwithstanding anything contained in this Act, a hotel-keeper shall be entitled to recover possession of the accommodation provided by him on obtaining a certificate from the prescribed authority that:—

- (a) the lodger has been guilty of conduct which is nuisance or any annoyance to any adjoining or neighbouring lodger; or
- (b) the accommodation is reasonably and bonafide required by the owner of the hotel or lodging house, as the case may be, either for his own occupation or for the occupation of any person for whose benefit the accommodation is held, or for any other cause which may be deemed satisfactory by the prescribed authority; or
- (c) the lodger staying on monthly basis is habitually irregular (or has made a default for three months) in making payment of the charges for board, lodging or other service provided in the hotel; or
- (d) the lodger has failed to vacate the accommodation on the termination of the period of the agreement in respect thereof:

Provided that before issuing a certificate under this clause, the prescribed authority would take into consideration the vacancies, if any, in the accommodation for daily and monthly lodgers at that time; or

- (e) the lodger has done any act which is inconsistent with the purpose for which the accommodation is provided to him or which is likely to affect adversely and substantially the hotel-keeper's interest therein.

Hotel-keeper to present detailed bills.

16. Every hotel-keeper shall present detailed bills to the person residing in the hotel and other customers and shall give receipt in acknowledgement of all payments.

17. If a hotel-keeper confirms a booking at a particular rate, it will be honoured at the same rate even if accommodation at higher rates only is available at the time of arrival of the person for whom accommodation stands booked.

When the hotel-keeper may honour confirmation of bookings at a particular rate.

18. The prescribed authority or any other officer authorised by him to inspect hotel premises from time to time will be allowed free access with or without prior notice.

Inspection with or without notice.

PART III TRAVEL AGENTS

19. (1) No person shall carry on the business of a travel agent in a tourist area unless he is registered in accordance with the provisions of this Act.

Registration.

(2) Every person intending to act as a travel agent in a tourist area shall before he commences to act as such apply for registration to the prescribed authority in the prescribed manner.

(3) Notwithstanding anything contained in sub-section (2), any person acting as a travel agent in a tourist area on the date a notification under clause (k) of section 3 is issued shall apply for registration, within three months from the aforesaid date.

Certificate of registration.

20. The prescribed authority shall, unless registration is refused under section 21, direct the entry of the name and particulars of the travel agent to be entered on the register maintained for the purpose and issue a certificate of registration to the travel agent in the prescribed form.

Refusal to register.

21. The prescribed authority may refuse the registration of a travel agent under this Act on any of the following grounds, namely:—

- (a) if he does not possess any of the prescribed qualifications;
- (b) if he has been convicted of any offence under Chapters XIII, XVI and XVII of the Indian Penal Code, 1860 or under the Prevention of Food Adulteration Act, 1954 or under any of the provisions of this Act and two years have not elapsed since the termination of the sentence imposed upon him;
- (c) if he has been declared an insolvent by a court of competent jurisdiction and has not been discharged; and
- (d) if his name has been removed from the register under this Act and six months have not elapsed since the date of removal;

Provided that no application for registration shall be refused unless the person applying for registration has been allowed an opportunity of being heard.

Removal of the name from the register.

22. The prescribed authority may, by an order in writing, remove the name of a travel agent, from the register and cancel his certificate of registration on any of the following grounds, namely:—

- (a) if he ceases to act as a travel agent in a tourist area;
- (b) if he is convicted of any offence under Chapters XIII, XVI and XVII of the Indian Penal Code, 1860 or under the Prevention of Food Adulteration Act, 1954, or under any of the provisions of this Act; and
- (c) if he is declared an insolvent by a court of competent jurisdiction.

Notice of removal of the name from the register.

23. Before removing a name from the register under section 22, the prescribed authority shall give notice to the travel agent of the ground on which it is proposed to take action and hold an inquiry in the presence of that person, giving him a reasonable opportunity of showing cause against it.

Fixation of rates.

24. The prescribed authority may by a notification in the Official Gazette fix fair rates which may be charged by a travel agent for the services rendered by him to a person engaging him as such.

Revision of fair rates.

25. The prescribed authority may, from time to time, revise the fair rates fixed under section 24.

When the travel agent fixes and notifies the rates.

26. Till such time as the prescribed authority has not fixed fair rates, the travel agent shall fix and notify these to the prescribed authority by March 31, each year.

Display of information.

27. Where under section 24 or section 25, the prescribed authority has fixed or revised the fair rates or even in case the prescribed authority has not fixed rates, the travel agent shall display a notice in a conspicuous place in his office of the fair rates and such information as may be prescribed.

Charges paid in excess of the fair rate.

28. (1) Notwithstanding any agreement to the contrary, no travel agent shall charge any amount in excess of the rates fixed.

(2) Any sum paid by a person in excess of the fair rate shall be recoverable by him at any time within six months from the date of payment from the travel agent and may, without prejudice to any other remedy for recovery, be adjustable by such person for any amount payable by him to the travel agent.

No refusal to render services.

29. No travel agent shall, without a reasonable excuse, refuse to make available his services to any person so long as he pays and is ready and willing to pay the rates fixed.

Travel agents to present detailed bills.

30. Every travel agent shall present detailed bills to the person availing his services and shall give receipts in acknowledgement of all payments received.

Travel agents not to demand tips, etc.

31. Travel agent is not to demand tips, gratuity, presents or commission other than as provided under this Act from any person engaging him or from any hotel-keeper in whose hotel such person resides or intends to reside.

PART IV

APPEALS

Appeal.

32. (1) An appeal shall lie to the District Judge in whose district the person applying carries on business against an order of refusal to register or removal of the name from the register by the prescribed authority under Part II on payment of court-fee of Rs. 50 and on payment of Rs. 25 under Part III within thirty days from the date of such orders.

(2) On receipt of an appeal under sub-section (1), the District Judge shall, after giving the appellant and the prescribed authority an opportunity of being heard, pass such orders thereon as he thinks fit.

(3) A person aggrieved of any order of the District Judge under sub-section (2) may appeal to the High Court on payment of Rs. 100 as court-fee.

(4) Every order passed by the prescribed authority under Parts II and III subject to appeals as provided in this section shall be final and shall not be liable to be questioned on any ground whatsoever in any court of law.

PART V

OFFENCES AND PENALTIES

33. If any person who is required to apply for registration under this Act fails or omits to do so in accordance with the provisions of this Act, he shall be punishable with fine not exceeding Rs. 1,000 for first offence and in the case of continuing offence with Rs. 50 for each day the offence continues after such conviction.

Penalty for default in registration.

34. If any person required to make a statement under this Act wilfully makes a false statement, he shall be punishable with imprisonment for a term which may extend to three months or with fine not exceeding Rs. 500 or with both.

Penalty for false statement.

35. Any person who lends, transfers or assigns the certificate of registration issued under this Act, without the permission in writing of the prescribed authority, shall be punishable with imprisonment for a term which may extend to six months or with fine not exceeding Rs. 2,000 or with both.

Certificate not to be assigned.

36. (1) Any person registered under this Act shall at all times, on demand, produce and show his certificate to any of the following persons, namely:—

Certificate to be shown to person on demand.

(a) the prescribed authority or any officer duly authorised by it in this behalf;

(b) any bona fide customer.

(2) Any person who refuses on demand to show his certificate to, or allow to be read by, any of the persons authorised to demand it, shall be punishable with fine not exceeding Rs. 500.

37. Any hotel-keeper or travel agent who commits a mal-practice in a tourist area or contravenes any other provision of this Act for which no specific penalty has been provided, shall be punishable with imprisonment for a term which may extend to three months or with fine not exceeding Rs. 1,000 or with both.

Penalty for malpractice.

38. Notwithstanding anything contained in this Act or in the Criminal Procedure Code, all offences under this Act may be tried summarily; and a Magistrate (not below the rank of Magistrate 1st Class) trying an offence under this Act may impose a sentence of fine exceeding Rs. 1,000 but not exceeding the fine as provided under this Act for such offence.

Offences to be tried summarily.

39. No prosecution shall be instituted against any person for any offence under this Act, except on a complaint made by the prescribed authority or the officer authorised by it in this behalf.

Institution of proceedings.

40. The prescribed authority shall have all the powers of a civil court under the Code of Civil Procedure, while trying a suit, in respect of the following matters, namely:—

Power of prescribed authority to summon and enforce attendance of witnesses and other persons.

(i) summoning and enforcing attendance of the complainant or the person against whom complaint is made under this Act and witnesses required in connection therewith;

(ii) compelling the production of any documents; and

(iii) examining witnesses on oath;

and may summon and examine *suo moto* any person whose evidence appears to be material.

Explanation.—For purposes of enforcing the attendance of witnesses and the other persons mentioned above, the local limits of the jurisdiction of the prescribed authority shall be the limits of Himachal Pradesh.

Composition of offences. 41. (1) The prescribed authority may accept from any person who is reasonably suspected of having committed an offence under this Act, a sum of money by way of composition for such offence and may out of the money so received compensate the person against whom the offence has been committed to the extent, the prescribed authority deems reasonable.

(2) On the composition of offence, no further proceeding in respect thereof shall be taken against the accused and if any proceeding has already been instituted against him in a court, the composition shall have the effect of acquittal except in the case of any offence falling within the provisions of sections 419 and 420 of the Indian Penal Code, 1860.

45 of 1860

PART VI MISCELLANEOUS

Notification of changes. 42. (1) Whenever a business for which a certificate of registration is held by a person devolves by inheritance or otherwise upon any other person, or undergoes a change in respect of any particular entered in the registers under this Act, such person shall, within fourteen days of the date of such devolution or change, notify in writing the fact to the prescribed authority.

(2) The prescribed authority shall make necessary changes in the register maintained for the purpose and in the certificate of registration.

(3) Notwithstanding anything contained in sub-section (2), the prescribed authority may remove from the register the name of the person in whose favour the certificate was issued and cancel the certificate of registration, if the successor is not qualified to be registered under this Act.

Return of the certificate of registration. 43. When a certificate of registration is cancelled under this Act, the person holding the certificate shall within seven days from the date of publication of the order of cancellation in Official Gazette return it to the prescribed authority.

Duplicate certificate. 44. If a certificate of registration issued under this Act is lost, damaged or destroyed, the prescribed authority shall, on an application made in that behalf by the person holding such certificate and on payment of the prescribed fee, issue a duplicate certificate.

Certificate of registration to be kept exhibited. 45. The certificate of registration shall be kept by the person holding it in a conspicuous place at the principal place of his business and if he has no principal place of business or acts otherwise than in any particular place, he shall keep it on his person.

Publication of list of persons removed from the register. 46. The prescribed authority shall from time to time publish in the Official Gazette and such other manner as it deems fit the names and addresses of persons and of the hotels whose names have been removed from the register and have been refused registration under this Act.

Proceedings before the prescribed authority to be judicial proceedings. 47. All proceedings before the prescribed authority under this Act shall be deemed to be judicial proceedings for the purpose of sections 193 and 228 of the Indian Penal Code.

45 of 1860

Indemnity.

48. No suit, prosecution or other legal proceeding whatsoever shall lie against the Government or any person in respect of anything which in good faith done or intended to be done under this Act.

Powers of the Government to apply Act to other persons.

49. The Government may by notification in the Official Gazette direct that all or any of the provisions of this Act or of the rules made thereunder shall, with such exceptions, adaptations or modifications as may be considered necessary, apply to persons doing the business in a tourist area of letting or plying for hire House-boats, Dongas, Bathing-boats, Shikaras, Automobile vehicles, Tongas, Dandis, Ponies or to such other persons as may be specified in the notification. The prescribed authority may fix the rates to be charged for the services to be rendered.

Power to make rules.

50. (1) The Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for:—

- (a) the maintenance of registers, books and forms by hotel-keeper or travel agent for conduct of business;
- (b) the form of application for registration and for certificate of registration;
- (c) the fee for registration;
- (d) the manner of giving notices under this Act;
- (e) manner of publication of the names and addresses of the persons removed from the register or to whom registration has been refused;
- (f) classification of hotels and travel agents;
- (g) the place where the prescribed authority shall hold enquiry under this Act;
- (h) all matters expressly required to be prescribed under this Act.

(3) All rules made under this section shall be subject to the condition of previous publication.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before the Himachal Pradesh Legislative Assembly while it is in session and if, before the expiry of the session in which it is so laid or the session immediately following, the House makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**(APPLICATION FORM FOR THE REGISTRATION
OF A HOTEL)**

To

The Prescribed Authority,

Sir,

I/We request that I/we may be registered as Hotel-keeper and my/our hotel known....., situated at.....may be registered under the Himachal Pradesh Registration of Hotels and Travel Agents Act, 1969, in respect of.....

The other particulars of the hotel are as under:-

1. Name of the person with full address intending to operate a hotel or is already operating a hotel ..
2. Name of the tourist area where the hotel is to be run ..
3. Name of the proprietor/proprietors ..
4. Name of the agent/agents/employee/employees ..
5. Hotel with or without board ..
6. Details of accommodation ..
7. Permanent home address ..
8. Any other business which the applicant is carrying on in any tourist area in Himachal Pradesh or outside

Yours faithfully,

Dated, the 19

Signature of the applicant.

(APPLICATION FORM FOR THE RESTORATION OF LOST OR DESTROYED CERTIFICATE)

To

The Prescribed Authority,

Sir,

I/We submit that my/our Registration Certificate as issued under No....., dated the.....has been lost/damaged/destroyed and in order to continue my/our business in accordance with the law I/we am/are desirous of having a duplicate certificate which may kindly be issued in my/our favour on payment of the prescribed fee. The other particulars of my/our business are as under:-

- (i)
- (ii)
- (iii)
- (iv)
- (v)

Yours faithfully,

Dated, the

Signature of the Hotel-keeper/Travel Agent with address.

DEPARTMENT OF TOURISM, HIMACHAL PRADESH
GOVERNMENT, SIMLA

CERTIFICATE OF REGISTRATION OF HOTEL

This is to certify that.....son of....., resident of.....proprietor of..... hotel.....has/have been registered under the Himachal Pradesh Registration of Hotels and Travel Agents Act, 1969, to operate the said hotel in.....area.

Signature:

Dated, the..... Designation with the seal of office:

(APPLICATION FOR REGISTRATION OF TRAVEL AGENT)

To
The Prescribed Authority,

Sir,

I/We request that I/we may be registered as a Travel Agent within the meaning of Himachal Pradesh Registration of Hotels and Travel Agents Act, 1969, forarea. The particulars required for the purpose are given hereunder:—

1. Name of applicant with address
2. Name of firm and its registered address
3. Year when the firm was founded ..
4. Whether the firm is a Proprietary/ Partnership/Private or Public Ltd. Co.
5. Month and date when the firm was registered ..
6. Capital invested
7. Names of Director/Directors/ Partner/Partners, etc.
8. Details of interests, if any, in other business of the Director/Directors/ Partner/Partners, etc. ..
9. Names of bankers (Attached reference from the bank)
10. Names of auditors. A balance sheet and profit and loss statement pertaining to the travel business as prescribed under Company Law must be submitted by each applicant

11. Income tax clearance certificate from the appropriate authority ..
12. All other activities undertaken by the firm besides travel arrangements ..
13. (i) Volume of tourist traffic handled upto the date of application showing foreign and internal tourist traffic separately ..
- (ii) Clientele—any special tourist parties, their size, frequency, etc. ..
- (iii) Amenities arranged for foreign tourists ..
- (iv) Steps taken to promote home tourist traffic and details of the parties handled, if any ..
14. Branches of the firm in the country. The staff employed at headquarters and branches ..
15. Particulars of foreign firms, if any, with which tourist traffic business connections have been established ..
16. Name of the guides approved by the Directorate of Tourism having been employed (with their addresses) ..

Yours faithfully,

Dated.....

Signature of the Director/
Directors/Partner/Partners/Proprietor.

**DEPARTMENT OF TOURISM, GOVERNMENT OF HIMACHAL
PRADESH, SIMLA**

CERTIFICATE OF REGISTRATION OF "TRAVEL AGENTS"

This is to certify that.....s/o.....r/o.....
.....has/have been registered under the Himachal Pradesh
Registration of Hotel and Travel Agents Act, 1969, to carry on the business
of 'Travel Agents' in Himachal Pradesh.

Signature:

Dated.....

Designation with the seal of office;

STATEMENT OF OBJECTS AND REASONS

The Himachal Pradesh Registration of Hotels and Travel Agents Bill, 1969 provides for the registration of persons dealing with tourists and for matters connected therewith. The Bill aims at providing facilities to the tourists by exercising a check on the price/rent charged by the hoteliers and travel agents for the services rendered and accommodation made available. No such law has been in force in any part of the Pradesh, it is necessary to enact the aforesaid legislation for the whole of Himachal Pradesh.

SIMLA:
The 7th April, 1969.

Y. S. PARMAR,
Chief Minister.

FINANCIAL MEMORANDUM

This Bill is likely to yield a non-recurring income of about Rs. 1,000 per annum as registration fee. Besides there will be income occasionally from Court Fees and penalties for offences committed under any of the provisions of this Bill.

An expenditure of about Rs. 32,000 per annum is involved on additional staff (such as Assistant Director, Tourist Officer, Reception Officer, Assistant, Clerk, Stenographer and a Peon) for surveying, inspections, inquiries etc., etc. for the purposes of action under Clauses 18 and 40 of the Bill.

MEMORANDUM OF DELEGATED LEGISLATION

Clause 50 empowers the Government to make rules in respect of the matters mentioned therein. The proposed delegation is normal in character.

**RECOMMENDATIONS OF THE ADMINISTRATOR UNDER
SECTION 23 OF THE GOVERNMENT OF UNION TERRITORIES
ACT, 1963**

(Tourism Department File No. 11-23(29)/Misc/67-TD)

The Administrator having been informed of the subject-matter of the Himachal Pradesh Registration of Hotels and Travel Agents Bill, 1969, recommends under 23 of the Government of Union Territories Act, 1963, the introduction of the Bill.

THE HIMACHAL PRADESH HABITUAL OFFENDERS BILL, 1969

(As INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to make better provision for the treatment and training of habitual offenders, and for certain other matters.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Himachal Pradesh Habitual Offenders Act, 1969.
(2) It extends to the whole of the Union territory of Himachal Pradesh.
(3) It shall come into force at once.

Short title, extent and commencement.

2. (1) In this Act, unless the context otherwise requires:—
(a) 'Code' means the Code of Criminal Procedure, 1898;
(b) 'corrective settlement' means any place established, approved or certified as a corrective settlement under section 14;
(c) 'District Magistrate' means a District Magistrate appointed under section 10 of the Code;
(d) 'habitual offender' means any person who since his attaining the age of eighteen years:—

Definitions

(i) during any consecutive period (whether before or after the commencement of this Act, or partly before and partly after such commencement) of five years, has been sentenced on conviction, on not less than three occasions, to a substantive term of imprisonment for one or more of the scheduled offences committed on separate occasions, being offences which are not so connected together as to form parts of the same transaction; and

(ii) such sentence has not been reversed in appeal or revision:

Provided that in computing the consecutive period of five years aforesaid, any period spent in jail either under a sentence of imprisonment or under detention shall not be taken into account;

(e) 'Government' means the Government of Himachal Pradesh;
(f) 'notification' means a notification published in the Official Gazette, under the proper authority;
(g) 'Official Gazette' means the Himachal Pradesh Rajpatra;
(h) 'prescribed' means prescribed by rules made under this Act;
(i) 'registered offender' means a habitual offender registered or re-registered under this Act;
(j) 'scheduled offence' means an offence specified in the Schedule or an offence analogous thereto;
(k) 'Superintendent of Police' means the Superintendent of Police and

includes any person appointed by the Government to perform the duties of a Superintendent of Police under this Act.

(2) Words and expressions used but not defined in this Act shall have the meanings assigned to them in the Code.

CHAPTER II

REGISTRATION OF HABITUAL OFFENDERS AND RESTRICTION OF THEIR MOVEMENTS

Power of Government to direct registration of habitual offenders.

3. The Government may direct the District Magistrate to make or cause to be made a register of habitual offenders within his district, by entering therein the names and other prescribed particulars of such offenders.

Procedure for preparing a register of habitual offenders.

4. For the purpose of carrying out the direction given under section 3, the District Magistrate or any officer appointed by him in this behalf shall, by notice in the prescribed form to be served in the prescribed manner, call upon every habitual offender in the district;

- (a) to appear before him at a time and place specified in the notice;
- (b) to furnish such information as may be necessary to enable him to enter the name and other prescribed particulars of the habitual offender in the register; and
- (c) to allow the finger and palm impressions, footprints and photographs of the habitual offender to be taken:

Provided that the name and other prescribed particulars of a habitual offender shall not be entered in the register, unless he has been given reasonable opportunity of showing cause why such entry should not be made.

Charge of Register and alterations therein.

5. (1) The register shall be placed in the keeping of the Superintendent of Police of the district who shall, from time to time, report to the District Magistrate, any alterations which ought, in his opinion, to be made therein.

(2) After the register has been placed in the keeping of the Superintendent of Police, no fresh entry shall be made in the register, nor shall any entry be cancelled, except by or under, an order in writing of the District Magistrate.

Powers to take finger and palm impressions, footprints and photographs at any time.

6. The District Magistrate or any officer appointed by him in this behalf, may at any time order the finger and palm impressions, footprints and photographs, of any registered offender to be taken.

Registered offenders to notify change of residence and to report themselves.

7. (1) Every registered offender shall notify to such authority, and in such manner, as may be prescribed, any change or intended change of his ordinary residence:

Provided that where such offender changes, or intends to change, his ordinary residence to another district (whether within the Union territory of Himachal Pradesh or not) he shall notify the change or intended change to the District Magistrate.

(2) The District Magistrate may, by order in writing, direct that any registered offender shall:—

- (a) report himself once in each month, or where the District Magistrate

for reasons specified in the order so directs, more frequently to such authority, and in such manner, as may be specified in the order; and

(b) notify any absence or intended absence from his ordinary residence to the aforesaid authority:

Provided that the District Magistrate may exempt any such offender from notifying any absence or intended absence from his ordinary residence for such period, and under such conditions, as appear to him reasonable.

8. (1) Where any registered offender changes his ordinary residence to another district within the Union territory of Himachal Pradesh, the District Magistrate of the district in which the offender is registered shall inform the District Magistrate of the other district of such change, and at the same time furnish him with the name and other particulars relating to the registered offender in the register.

(2) On the receipt of such information, the District Magistrate of the other district shall enter in his register the name and other particulars of the registered offender furnished to him, and inform the District Magistrate of the first district of such registration, and thereupon such District Magistrate shall cancel from his register the entry relating to that offender:

Provided that where a registered offender changes his ordinary residence to another district outside the Union territory of Himachal Pradesh the District Magistrate of the first district shall, while furnishing the District Magistrate of the other district with the name and other particulars of the registered offender make a request to that District Magistrate that he may be informed of the steps, if any, which may have been taken in relation to the offender under any law for the time being in force in that other district; and upon the receipt of such information the District Magistrate of the first district shall cancel from register the entry relating to that offender.

(3) Upon the entry of the name and other particulars of a registered offender in any register in Union territory of Himachal Pradesh under sub-section (2), the provisions of this Act and the rules made thereunder shall apply to him as if he has been registered, in pursuance of a direction given under section 3, in the register of the district to which he has changed his ordinary residence.

9. (1) Subject to the provisions of sub-section (3), the registration of a habitual offender under this Act shall, unless earlier cancelled, cease to be in force on the expiry of five years from the date of such registration, and on such cancellation or expiry the habitual offender shall cease to be a registered offender.

(2) Notwithstanding the cancellation, or expiry of duration of registration, a habitual offender may be re-registered in accordance with the provisions of this Act relating to registration, as often as he is convicted of one or more of the scheduled offences at any time after such cancellation, or expiry; and subject to the provisions of sub-section (3), the re-registration shall, unless earlier cancelled, cease to be in force on the expiry of five years from the date of such re-registration.

(3) Where a registered offender is, during the period of registration or re-registration, convicted of one or more of the scheduled offences and sentenced to a substantive term of imprisonment, the duration of registration or re-registration shall be extended for a period of five years from the date of his release from such imprisonment.

Procedure
by District
Magistrate
on change
of residence
of habitual
offender to
other dis-
trict.

Duration of
registration
and re-
registration
of habitual
offenders.

Right to make representations against re-registration etc.

10. (1) Any person aggrieved by the registration or re-registration of his name under section 4, or as the case may be, section 9 or by an order under sub-section (2) of section 7, may within the prescribed period make a representation to the Commissioner against such registration, re-registration or orders.

(2) The Commissioner shall, after considering the representation, and giving the aggrieved person an opportunity of being heard, either confirm or cancel the registration, re-registration or order, as the case may be, and shall in the case of confirmation record, a brief statement of the reasons therefor.

Power to restrict movements of registered offenders.

11. (1) If in the opinion of the Government it is necessary or expedient in the interests of the general public so to do, the Government may, subject to the provisions of sub-section (4), by order direct that any registered offender shall be restricted in his movements to such area, and for such period not exceeding three years as may be specified in the order.

(2) Before making any such order the Government shall take into consideration the following matters, that is to say,—

- (a) the nature of the offences of which the registered offender has been convicted and the circumstances in which the offences were committed;
- (b) whether the registered offender follows any lawful occupation, and whether such occupation is conducive to an honest and settled way of life and is not merely a pretence for the purpose of facilitating the commission of crime;
- (c) the suitability of the area to which his movements are to be restricted; and
- (d) the manner in which the registered offender may earn his living within the restricted area and the adequacy of arrangements which are or are likely to be, available therefor.

(3) A copy of the order shall be served on the registered offender in the prescribed manner.

(4) The period specified in an order under sub-section (1) shall in no case extend beyond the period of registration or re-registration, as the case may be, referred to in section 9.

Power to cancel or alter restrictions of movements.

12. The Government may, by order, cancel any order made under section 11, or alter any area specified in an order under that section:

Provided that before making such order, the Government shall consider the matters referred to in sub-section (2) of section 11 in so far as they may be applicable.

Powers under sections 11 and 12 also exercisable by certain Magistrates.

13. (1) Subject to the provisions of sub-sections (3), the powers of the Government under sections 11 and 12 may be exercised also by a Magistrate having power to act under section 110 of the Code, but without prejudice to the exercise of his powers under that section of the Code.

(2) A Magistrate acting under section 11 or 12 shall follow, as nearly as may be, the procedure laid down in sections 112, 113, 114, 115 and 117 of the Code for an order requiring security for good behaviour:

Provided that the order in writing referred to in section 112 of the Code shall, in addition to setting forth the substance of the information received, state the term, not exceeding three years, during which the order of restriction shall be in force.

(3) Where the Government has already made an order under section 11 in respect of a habitual offender, the Magistrate shall not exercise any powers conferred by this section in respect of the same habitual offender, during any period in which the order of the Government is in force.

CHAPTER III

CORRECTIVE TRAINING OF HABITUAL OFFENDERS

14. (1) For the purpose of placing therein such habitual offenders as are directed to receive corrective training under this Act, the Government may, by notification in the Official Gazette, establish and maintain in the Union territory of Himachal Pradesh as many corrective settlements as it thinks fit.

(2) The Government may also approve or certify any privately managed institution (whether known as a settlement or otherwise) as a corrective settlement for the purposes of this Act.

15. (1) Where the Government is satisfied from the report of the District Magistrate or otherwise that it is expedient with a view to the reformation of a registered offender and the prevention of crime, that the registered offender should receive training of a corrective character for a substantial period, the Government may by order in writing direct that the registered offender shall receive training of a corrective character for such period not exceeding the duration of his registration or re-registration as may be specified in the order.

(2) Where a habitual offender, who is not more than forty years of age:—

(a) is convicted of any offence punishable with imprisonment, or
 (b) is required in pursuance of section 110 of the Code to execute a bond for his good behaviour, and the court or the Magistrate is satisfied from the evidence in the case and other materials on record that it is expedient with a view to his reformation and the prevention of crime, that he should receive training of a corrective character for substantial period, the court or the Magistrate may, in lieu of sentencing him for such offence or, as the case may be, requiring him to execute such bond, direct that he shall receive corrective training for such term of not less than two or more than five years, as the court or the Magistrate may determine.

(3) Before giving any direction under sub-section (1) or sub-section (2) the Government, the court or the Magistrate, as the case may be, shall,—

(a) consult the officer prescribed on the capacity of the corrective settlements to receive the habitual offender;
 (b) take into consideration the physical and mental condition of the offender, and the suitability for receiving corrective training in a corrective settlement; and
 (c) give a reasonable opportunity to the offender to show cause why such direction should not be given.

(4) A habitual offender, in respect of whom a direction to receive corrective training has been made, shall be placed in a corrective settlement for the term of his training, and while in such settlement shall be treated in such manner and receive such training as may be prescribed.

16. The Government or any officer authorised by it in this behalf, may at any time by order in writing direct any habitual offender who may be in a corrective settlement to be transferred to another corrective settlement to be discharged therefrom, and accordingly he shall be so transferred or, as the case may be, discharged.

Establish-
ment of
corrective
settlements.

Power to
direct habi-
tual offend-
ers to
receive cor-
rective
training.

Power to
transfer or
discharge
from cor-
rective set-
tlement.

CHAPTER IV

PENALTIES AND PROCEDURE

Penalty for failure to comply with certain provisions of the Act.

17. A habitual offender who without lawful excuse, the burden of proving which shall lie upon him;—

- (a) fails to appear in compliance with a notice issued under section 4; or
- (b) intentionally omits to furnish any information required under that section or furnishes as true any information which he knows, or has reasons to believe, to be false or does not believe to be true; or
- (c) refuses to allow his finger and palm impression, footprints and photographs to be taken by any person acting under an order passed under section 6; or
- (d) fails to comply with the provision of sub-section (1) of section 7 or with an order of the District Magistrate under sub-section (2) thereof or with an order under section 11;

may be arrested without warrant, and shall be punished;—

- (i) on first conviction, with imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees, or with both, and
- (ii) on a second or subsequent conviction, with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees, or with both:

Provided that, if the Court, after taking into consideration the offender's age and physical and mental condition and his suitability for receiving training of a corrective character in a corrective settlement, is satisfied that it is expedient with a view to his reformation and the prevention of crime, that he should receive training of a corrective character for a substantial period the court may, in lieu of sentencing the offender to any punishment under this section, direct, after giving him an opportunity of showing cause (and after consulting the officer prescribed on the capacity of the corrective settlements to receive him) that he shall receive corrective training in a corrective settlement for such term not exceeding three years, as it may determine.

Arrest of persons found outside restriction area or corrective settlement.

18. If any person;

- (a) is found outside the area to which his movements have been restricted in contravention of the conditions under which he is permitted to leave such area; or
- (b) escapes from any corrective settlement in which he is placed, he may be arrested without warrant by a police officer and taken before a Magistrate who on proof of the facts, may order him to be removed to such area or to such corrective settlement, there to be dealt with in accordance with this Act and rules made thereunder.

Enhanced punishment for certain previously convicted persons.

19. (1) Whoever, being a person in respect of whom a direction has been made under section 11 or section 15, and having been convicted of any of the scheduled offences falling under Part I of the schedule, is convicted of the same or of any other scheduled offence falling in that part shall, on conviction, be punished with imprisonment for life or with imprisonment for a term which may extend to ten years.

(2) Nothing in this section shall affect the liability of such person to any further or other punishment to which he may be liable under the Indian Penal Code, or any other law.

20. Whoever, being a person in respect of whom a direction has been made under section 11 or section 15, is found in any place under such circumstances as to satisfy the court;—

- (a) that he was about to commit, or aid in the commission of, theft or robbery, or
- (b) that he was making preparation for committing theft or robbery, shall, on conviction, be punished with imprisonment for a term which may extend to three years, and shall also be liable to a fine which may extend to one thousand rupees.

Punishment for certain registered offenders found under suspicious circumstances.

CHAPTER V

MISCELLANEOUS

21. No court shall question the validity of any direction or order issued under this Act.

Bar of jurisdiction.

22. No court shall question the competence of any authority making or issuing any notification, order or direction under this Act.

Bar of legal proceedings.

23. The Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act except the power under section 24 may also be exercised subject to such conditions, if any, as may be specified in the notification, by such officer not below the rank of a District Magistrate as may be specified therein.

Power to delegate.

24. (1) The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the form of notice under section 4 and the manner in which such notice may be served;
- (b) the form of the register of habitual offenders and the particulars to be entered therein;
- (c) the authority to whom and the manner in which any change or intended change of ordinary residence shall be notified under sub-section (1) of section 7;
- (d) the nature of restrictions to be observed by registered offenders whose movements have been restricted;
- (e) the grant of certificate of identity to registered offenders and inspection of such certificates;
- (f) the conditions under which the offenders may be permitted to leave the area to which their movements have been restricted or the corrective settlement in which they have been placed;
- (g) the terms upon which offenders may be discharged from corrective settlements;
- (h) the working, management, control and supervision of corrective settlements including the discipline and conduct of persons placed therein;
- (i) the conditions for, and the manner of, approving of certifying privately managed settlements;
- (j) the appointment of non-official visitors for corrective settlements;
- (k) the conditions and circumstances under which members of the family of a habitual offender may be permitted to stay with him in a corrective settlement;
- (l) the periodical review of the cases of all persons whose movements

have been restricted or who are placed in corrective settlements under this Act; and

(m) any other matter which is to be or may be prescribed under this Act.

(3) In making rules under this Act, the Government may provide that a contravention of any of the rules shall be punishable with fine which may extend to one hundred rupees.

(4) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session, for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Corresponding provisions under any law for the time being in force.

Repeal and Savings.

25. Nothing in this Act shall affect the powers of any competent authority under any other law for the time being in force to make an order of restriction or detention, and any order passed or direction made under this Act in so far as it conflicts with any order made by a competent authority under such law shall be deemed to be inoperative while the order under such law remains in force.

26. The Punjab Habitual Offenders (Control and Reform) Act, 1952 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 and the Bombay Habitual Offenders Act, 1959 as extended to areas comprised in Himachal Pradesh immediately before 1st November, 1966, are hereby repealed:

Provided that any order made, notification or direction issued, appointment made or action taken in exercise of the powers conferred by or under the Acts hereby repealed, shall be deemed to have been made, issued, done or taken under the corresponding provisions of this Act.

12 of 1952
31 of 1966
61 of 1959

THE SCHEDULE

[See section 2(j)]

I

Offences under the Indian Penal Code.

CHAPTER VII

SECTIONS:

231. Counterfeiting coin.
232. Counterfeiting Indian coin.
233. Making or selling instrument for counterfeiting coin.
234. Making or selling instrument for counterfeiting Indian coin.
235. Possession of instrument or material for the purpose of using the same for counterfeiting coin.
239. Delivery of coin possessed with knowledge that it is counterfeit.
240. Delivery of Indian coin, possessed with knowledge that it is counterfeit.
242. Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof.
243. Possession of Indian coin by person who knew it to be counterfeit when he became possessed thereof.

CHAPTER XVI

- 304. Culpable homicide not amounting to murder.
- 307. Attempt to murder.
- 308. Attempt to commit culpable homicide.
- 311. Being a thug.
- 324. Voluntarily causing hurt by dangerous weapons or means.
- 325. Voluntarily causing grievous hurt.
- 326. Voluntarily causing grievous hurt by dangerous weapons or means.
- 327. Voluntarily causing hurt to extort property, or to constrain to an illegal act.
- 328. Causing hurt by means of poison etc. with intent to commit an offence.
- 329. Voluntarily causing grievous hurt to extort property or to constrain to an illegal act.
- 332. Voluntarily causing hurt to deter public servant from his duty.
- 333. Voluntarily causing grievous hurt to deter public servant from his duty.
- 347. Wrongful confinement to extort property, or constrain to illegal act.
- 365. Kidnapping or abducting with intent secretly and wrongfully to confine person.
- 366A. Procuration of minor girl.
- 366B. Importation of girl from foreign country.
- 368. Wrongfully concealing or keeping in confinement, kidnapped or abducted person.
- 369. Kidnapping or abducting child under ten years with intent to steal from its person.

CHAPTER XVII

- 379. Theft.
- 380. Theft in dwelling house, etc.
- 382. Theft after preparation made for causing death, hurt or restraint in order to the committing of the theft.
- 384. Extortion.
- 385. Putting person in fear of injury in order to commit extortion.
- 386. Extortion by putting a person in fear of death or grievous hurt.
- 387. Putting person in fear of death or of grievous hurt, in order to commit extortion.
- 392. Robbery.
- 393. Attempt to commit robbery.
- 394. Voluntarily causing hurt in committing robbery.
- 395. Dacoity.
- 397. Robbery or dacoity, with attempt to cause death or grievous hurt.
- 398. Attempt to commit robbery or dacoity when armed with deadly weapon.
- 399. Making preparation to commit dacoity.
- 400. Belonging to a gang of dacoits.
- 401. Belonging to a gang of thieves.
- 402. Assembling for purpose of committing dacoity.
- 411. Dishonestly receiving stolen property.
- 414. Assisting in concealment of stolen property.
- 451. House-trespass in order to commit offence punishable with imprisonment.
- 452. House-trespass after preparation for hurt, assault or wrongful restraint.
- 453. Lurking house-trespass or house-breaking.

- 454. Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment.
- 455. Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.
- 456. Lurking house-trespass or house-breaking by night.
- 457. Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.
- 458. Lurking house-trespass or house-breaking by night after preparation for hurt, assault, or wrongful restraint.
- 459. Grievous hurt caused whilst committing lurking house-trespass or house-breaking.
- 460. All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.

II

Offence under the Suppression of Immoral Traffic in Women and Girls Act, 1956.

Section 4—Living on the earnings of prostitution.

III

An offence under section 3 of the Public Gambling Act, 1867 (Act III of 1867).

IV

Any offence under the Essential Commodities Act, 1955, and rules and orders framed and issued thereunder.

STATEMENT OF OBJECTS AND REASONS

There are at present two different Acts in force in two different areas of Himachal Pradesh in regard to the making of better provision for the treatment and training of habitual offenders. One is the Punjab Habitual Offenders (Control and Reform) Act, 1952 which is in force in the areas added to Himachal Pradesh as a result of the re-organisation of the State of Punjab and the other is the Bombay Habitual Offenders Act, 1959, which is in force in the areas comprised in Himachal Pradesh immediately prior to 1st November, 1966. With a view to bringing about uniformity in the matter of such law, it has been considered necessary to enact a unified law on the subject for the whole of Himachal Pradesh by repealing the aforesaid Acts. This Bill seeks to achieve the aforesaid object.

SIMLA:
The 7th April, 1969.

Y. S. PARMAR,
Chief Minister.

FINANCIAL MEMORANDUM

No separate 'corrective settlement' will be established. The Open Air Jail or the Modern Central Jail will be declared to be 'corrective settlement' for the purpose mentioned in clause 14 of the Bill. No financial implications are, therefore, involved in this Bill.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 24 of the Bill empowers the Government to make rules in respect of the matters enumerated therein. The proposed delegation is normal in character.

Bill No. 15 of 1969

THE INDIAN STAMP (HIMACHAL PRADESH AMENDMENT)
BILL, 1969

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to amend the Indian Stamp Act, 1899 (2 of 1899) in its application to Himachal Pradesh.

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Stamp (Himachal Pradesh Amendment) Act, 1969.

(2) It extends to the whole of Himachal Pradesh.

2. In the Indian Stamp Act, 1899, in its application to Himachal Pradesh for Schedule I-A annexed to the said Act, the Schedule hereinafter annexed to this Act shall be substituted.

Short title and extent.

Substitution of Schedule I-A, annexed to the Indian Stamp Act, 1899.

Repeal and savings.

8 of 1922
34 of 1960
24 of 1964
6 of 1965

31 of 1966

4 of 1953

31 of 1966

3. The Indian Stamp (Punjab Amendment) Act, 1922, the Indian Stamp (Punjab Amendment) Act, 1960, the Indian Stamp (Punjab Amendment) Act, 1964, and the Indian Stamp (Punjab Amendment) Act, 1965, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 and the Schedule I-A as extended to old areas of Himachal Pradesh by the Government of India, Ministry of Home Affairs notification No. G.S.R. 518 (F. 4/4/63-UTL-65) dated the 18th March, 1964 are hereby repealed:

Provided that anything done or any action taken under the aforesaid Acts shall be deemed to have been done or taken under this Act.

4. The Indian Stamp (Himachal Pradesh Amendment) Act, 1952 (except Schedule I-A) as amended from time to time, as applicable to and in force in the old areas and all rules, regulations, notifications, orders made, and all directions or instructions issued, thereunder, which are in force in the old areas are hereby extended to and shall be in force in the areas transferred under section 5 of the Punjab Re-organisation Act, 1966, to Himachal Pradesh.

Extension of the Indian Stamp (Himachal Pradesh Amendment) Act, 1952.

SCHEDULE I-A

STAMP DUTY ON CERTAIN INSTRUMENTS

Note.—The articles in Schedule I-A are numbered so as to correspond with similar articles in Schedule I.

Description of Instrument 1	Proper Stamp Duty 2
1. Acknowledgement of a debt exceeding twenty rupees in amount or value, written or signed by, or on behalf of, a debtor in order to supply evidence of such debt, in any book (other than a banker's pass-book) or on a separate piece of paper when such book or paper is left in the creditor's possession:	Twenty-five paise.

Provided that such acknowledgement does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property.

2. **Administration Bond**, including a bond given under section 6 of the Government Savings Bank Act, 1873, or section 291, 375 and 376 of the Indian Succession Act, 1925:—

(a) where the amount does not exceed Rs. 1,000; The same duty as a Bond (No. 15) for such amount.
 (b) in any other case. Fifteen rupees.

3. **ADOPTION-DEED**, that is to say, any instrument (other than a Will), recording an adoption, or conferring or purporting to confer an authority to adopt. Thirty-seven rupees, fifty paise.

ADVOCATE—See entry as an Advocate (No. 30).

4. **AFFIDAVIT**, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing.

Exemptions

Affidavit or declaration in writing when made—

(a) as a condition of enrolment under the Army Act, 1950; or Air Force Act, 1950;
 (b) for the immediate purpose of being filed or used in any court or before the officer of any Court; or
 (c) for the sole purpose of enabling any person to receive any pension or charitable allowance.

5. **AGREEMENT OR MEMORANDUM OF AN AGREEMENT**—

(a) if relating to the sale of a bill of exchange; Forty paise.

(b) if relating to the sale of a Government Security or share in an incorporated company or other body corporate;

(c) if not otherwise provided for.

Exemptions

Agreement or memorandum of agreement—

(a) for or relating to the sale of goods or merchandise exclusively, not

Subject to a maximum of twenty-two rupees and fifty paise, twenty-five paise for every Rs. 10,000 or part thereof of the value of the security or share.

Two rupees, twenty-five paise.

being a Note or Memorandum chargeable under No. 43;

(b) made in the form of tenders to the Central Government for or relating to any loan.

AGREEMENT TO LEASE—See Lease (No. 35).

6. Agreement relating to Deposit of Title—Deeds, Pawn or Pledge, that is to say, any instrument evidencing an agreement relating to—

(1) the deposit of title—deeds, or instruments constituting or being evidence of the title to any property whatever (Other than a marketable security), or

(2) the pawn or pledge of movable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—

(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement—

(i) when the amount of loan or debt does not exceed Rs. 200. Sixty paise.

(ii) when it exceeds Rs. 200, but does not exceed Rs. 400. One rupee, twenty paise.

when it exceeds Rs. 400, but does not exceed Rs. 600. One rupee, sixty-five paise.

when it exceeds Rs. 600, but does not exceed Rs. 800. One rupee, ninety-five paise.

when it exceeds Rs. 800, but does not exceed Rs. 1,000. Two rupees, seventy paise.

when it exceeds Rs. 1,000, but does not exceed Rs. 1,200. Three rupees, thirty paise.

when it exceeds Rs. 1,200, but does not exceed Rs. 1,600. Four rupees, twenty paise.

when it exceeds Rs. 1,600, but does not exceed Rs. 2,500. Six rupees, thirty paise.

when it exceeds Rs. 2,500, but does not exceed Rs. 5,000. Twelve rupees, seventy-five paise.

when it exceeds Rs. 5,000, but does not exceed Rs. 7,500. Eighteen rupees, seventy-five paise.

when it exceeds Rs. 7,500, but does not exceed Rs. 10,000. Twenty-four rupees, forty-five paise

when it exceeds Rs. 10,000, but does not exceed Rs. 15,000.	Thirty-seven rupees, ninety-five paise.
when it exceeds Rs. 15,000, but does not exceed Rs. 20,000.	Forty-nine rupees, ninety-five paise.
when it exceeds Rs. 20,000, but does not exceed Rs. 25,000.	Sixty-one rupees, ninety-five paise.
when it exceeds Rs. 25,000, but does not exceed Rs. 30,000.	Seventy-six rupees, five paise.
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000.	Twenty-four rupees, forty-five paise.
(b) if such loan or debt is repayable not more than three months from the date of such instrument.	Half the duty payable on a loan or debt under clause (a) (i) or clause (a)(ii) for the amount secured.

Exemption

Instrument of pawn or pledge of goods if unattested.

7. **APPOINTMENT IN EXECUTION OF A POWER**, whether of trustees or of property, movable or immovable, where made by any writing not being a Will.

8. **APPRAISEMENT OR VALUATION** made otherwise than under an order of the Court in the course of a suit—

(a) where the amount does not exceed Rs. 1,000;

(b) in any other case.

Thirty-seven rupees, fifty paise.

The same duty as a Bottomry Bond (No. 16) for such amount.

Fifteen rupees.

Exemptions

(a) Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.

(b) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.

9. **APPRENTICESHIP-DEED**, including every writing relating to the service or tuition of any apprentice, clerk or servant placed with any master to learn any profession, trade or employment, not being articles of clerkship (No. 11).

As in Schedule I.

Exemption

Instrument of apprenticeship executed by a Magistrate under the Apprentices Act, 1850, or by which a person is apprenticed by or at the charge of, any public charity.

10. ARTICLES OF ASSOCIATION OF A COMPANY—

(a) when the authorised capital of the company does not exceed one lac; Sixty rupees.
 (b) in other cases. One hundred and twenty rupees.

Exemption

Article of any Association not formed for profit and registered under section 25 of the Companies Act, 1956.

See also Memorandum of Association of a Company (No. 39).

11. ARTICLES OF CLERKSHIP

As in Schedule I.

ASSIGNMENT—See Conveyance (No. 23), Transfer (No. 62), and Transfer of Lease (No. 63), as the case may be.

ATTORNEY—See entry as an Attorney (No. 30), and Power of Attorney (No. 48).

AUTHORITY TO ADOPT—See Adoption-Deed (No. 3).

12. AWARD, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit—

(a) where the amount or value of the property to which the award relates as set forth in such award, does not exceed Rs. 1,000; The same duty as a Bond (No. 15) for such amount.
 (b) if it exceeds Rs. 1,000, but does not exceed Rs. 5,000; Fifteen rupees.
 and for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000. One rupee, fifteen paise subject to a maximum of one hundred and twelve rupees, fifty paise.

13. BILL OF EXCHANG

As in Schedule I.

14. BILL OF LADING (including a through bill of lading).

As in Schedule I.

15. BOND as defined by section 2(5), not being a DEBENTURE (No. 27), and not being otherwise provided for by this Act or by the Court-fees Act, 1870—

where the amount or value secured does not exceed Rs. 10; Thirty paise.

where it exceeds Rs. 10 and does not exceed Rs. 50; Sixty paise.

where it exceeds Rs. 50 and does not exceed Rs. 100; One rupee, fifteen paise.

where it exceeds Rs. 100 and does not exceed Rs. 200; Two rupees, twenty-five paise.

where it exceeds Rs. 200 and does not exceed Rs. 300; Three rupees, forty paise.

where it exceeds Rs. 300 and does not exceed Rs. 400; Four rupees, fifty paise.

where it exceeds Rs. 400 and does not exceed Rs. 500; Five rupees, sixty-five paise.

where it exceeds Rs. 500 and does not exceed Rs. 600; Nine rupees.

where it exceeds Rs. 600 and does not exceed Rs. 700; Ten rupees, fifty paise.

where it exceeds Rs. 700 and does not exceed Rs. 800; Twelve rupees.

where it exceeds Rs. 800 and does not exceed Rs. 900; Thirteen rupees, fifty paise.

where it exceeds Rs. 900 and does not exceed Rs. 1,000; Fifteen rupees.

and for every Rs. 500 or part thereof in excess of Rs. 1,000; Seven rupees, fifty paise.

See Administration Bond (No. 2), Bottomry Bond (No. 16), Customs Bond (No. 26), Indemnity Bond (No. 34), Respondentia Bond (No. 56), Security Bond (No. 57).

Exemption

Bond when executed by any person for the purpose of guaranteeing that the local income derived from private subscription to a charitable dispensary or hospital or to any other object of public utility, shall not be less than a specified sum per mensem.

16. BOTTOMRY BOND, that is to say, any instrument whereby the master of a sea-going ship borrows money on a security of the ship to enable

him to preserve the ship or prosecute her voyage—	
where the amount or value secured does not exceed Rs. 10;	Thirty paise.
where it exceeds Rs. 10 and does not exceed Rs. 50;	Sixty paise.
where it exceeds Rs. 50 and does not exceed Rs. 100;	One rupee, fifteen paise.
where it exceeds Rs. 100 and does not exceed Rs. 200;	Two rupees, twenty-five paise.
where it exceeds Rs. 200 and does not exceed Rs. 300;	Three rupees, forty paise.
where it exceeds Rs. 300 and does not exceed Rs. 400;	Four rupees, fifty paise.
where it exceeds Rs. 400 and does not exceed Rs. 500;	Five rupees, sixty-five paise.
where it exceeds Rs. 500 and does not exceed Rs. 600;	Six rupees, seventy-five paise.
where it exceeds Rs. 600 and does not exceed Rs. 700;	Seven rupees, ninety paise.
where it exceeds Rs. 700 and does not exceed Rs. 800;	Nine rupees.
where it exceeds Rs. 800 and does not exceed Rs. 900;	Ten rupees, fifteen paise.
where it exceeds Rs. 900 and does not exceed Rs. 1,000;	Eleven rupees, twenty-five paise.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Five rupees, sixty-five paise.
17. CANCELLATION.—Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for.	Fifteen rupees.
See also Release (No. 55), Revocation of Settlement (No. 58-B), Surrender of Lease (No. 61), Revocation of Trust (No. 64-B).	
18. CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue Officer.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the purchase-money only.
19. CERTIFICATE OR OTHER DOCUMENT evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any incorporated company or other body corporate, or to become proprietor of shares,	Forty paise.

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scrip or stock in or of any such company or body.

20.	CHARTER PARTY that is to say, any instrument (except an agreement for the hire of a tug steamer), whereby a vessel or some specified principal part thereof is let for the specified purposes of the Charterer, whether it includes a penalty clause or not.	Three rupees.
22.	COMPOSITION-DEED, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business under the supervision of inspectors or under letters of licence, for the benefit of his creditors.	Thirty rupees.
23.	Conveyance as defined by Section 2(10) not being a Transfer charged or exempted under No. 62.	Where conveyance amounts to sale of immovable property.
		(a) (b)
	Where the value or amount of the consideration for such conveyance as set forth therein does not exceed Rs. 50;	Three rupees. One rupee and fifty paise.
	Where it exceeds Rs. 50, but does not exceed Rs. 100;	Six rupees. Three rupees.
	Where it exceeds Rs. 100, but does not exceed Rs. 200;	Twelve rupees. Six rupees.
	Where it exceeds Rs. 200, but does not exceed Rs. 300;	Eighteen rupees. Nine rupees.
	Where it exceeds Rs. 300, but does not exceed Rs. 400;	Twenty-four rupees. Twelve rupees.
	Where it exceeds Rs. 400, but does not exceed Rs. 500;	Thirty rupees. Fifteen rupees.
	Where it exceeds Rs. 500, but does not exceed Rs. 600;	Thirty-six rupees. Eighteen rupees.
	Where it exceeds Rs. 600, but does not exceed Rs. 700;	Forty-two rupees. Twenty-one rupees.
	Where it exceeds Rs. 700, but does not exceed Rs. 800;	Forty-eight rupees. Twenty-four rupees.

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	(a) (b)
Where it exceeds Rs. 800, but does not exceed Rs. 900;	Fifty-four rupees. Twenty-seven rupees.
Where it exceeds Rs. 900, but does not exceed Rs. 1,000;	Sixty rupees. Thirty rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Thirty rupees. Fifteen rupees.

Exemption

Assignment of copyright under the Copyright Act, 1957, Section 18.

Co-PARTNERSHIP-DEED. See partnership (No. 46).

24. COPY OR EXTRACT certified to be true copy or extract, by or by order of any public officer and not chargeable under the law for the time being in force relating to Court-fees—

- (i) if the original was not chargeable with duty or if the duty with which it was chargeable does not exceed two rupees; One rupee, fifteen paise.
- (ii) in any other case not falling within the provisions of section 6-A. Three rupees.

Exemptions

(a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.

(b) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, divorces, deaths or burials.

25. COUNTERPART OR DUPLICATE of any instrument chargeable with duty and in respect of which the proper duty has been paid—

- (a) if the duty with which the original instrument is chargeable does not exceed two rupees; One rupee, fifteen paise.
- (b) in any other case not falling within the provisions of section 6-A. Three rupees.

Exemption

Counterpart of any lease granted to a cultivator, when such lease is exempted from duty.

26. CUSTOMS-BONDS—

(a) where the amount does not exceed Rs. 1,000;

(b) in any other case.

27. DEBENTURE (Whether a mortgage debenture or not), being a marketable security transferable—

(a) by endorsement or by a separate instrument of transfer;

(b) by delivery.

Explanation.—The term "Debenture" includes any interest coupons attached thereto, but the amount of such coupons shall not be included in estimating the duty.

Exemption

A debenture issued by an incorporated company or other body corporate in terms of a registered mortgage-deed, duly stamped in respect of the full amount of debentures to be issued thereunder, whereby the company or body borrowing makes over, in whole or in part, their property to trustees for the benefit of the debenture-holders; provided that the debentures so issued are expressed to be issued in terms of the said mortgage-deed.

See also Bond (No. 15) and sections 8 and 55. Declaration of any Trust—See Trust (No. 64).

28. DELIVERY ORDER IN RESPECT OF GOODS, DEPOSIT OF TITLE-DEEDS—

See Agreement relating to Deposit of Title-Deeds, Pawn or Pledge (No. 6).

Dissolution of Partnership—See Partnership (No. 46).

29. DIVORCE, Instrument of—that is to say, any instrument by which any person effects the dissolution of his marriage.

DOWER, Instrument of—See Settlement (No. 58).

DUPLICATE—See Counterpart (No. 25).

The same duty as a Bond (No. 15) for such amount.

Fifteen rupees.

As in Schedule I.

As in Schedule I.

Twenty-five paise.

Thirty rupees.

30. ENTRY AS AN ADVOCATE, VAKIL OR ATTORNEY ON THE ROLL OF THE HIGH COURT—

(a) in the case of an Advocate or Vakil; Seven hundred and fifty rupees.
 (b)¹ in the case of an Attorney Seven hundred and fifty rupees.

Exemption

Entry of an Advocate, Vakil or Attorney on the roll of the High Court, when he has previously been enrolled in any other High Court.

**31. EXCHANGE OF PROPERTY, Instrument of—
EXTRACT—See Copy (No. 24).**

The same duty as a Conveyance (No. 23) as levied by this Act for consideration equal to the value of the property of greatest value as set forth in such instrument.

32. FURTHER CHARGE, Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—

(a) when the original mortgage is one of the description referred to in clause (a) of Article No. 40, that is, with possession;

The same duty as a mortgage-deed with possession [No. 40 (a)] for the amount equal to the amount of the further charge secured by such instrument.

(b) when such mortgage is one of the description referred to in clause (b) of Article No. 40 (that is, without possession)—

The same duty as a mortgage-deed with possession [No. 40 (a)] for the amount equal to the total amount of the charge (including the original mortgage and any further charge already made) less the duty already paid on such original mortgage and further charge.

(i) if possession is given.

The same duty as a Bond (No. 15) for the amount of the further charge secured by such instrument.

33. GIFT-Instrument of, not being a settlement (No. 58), or Will or Transfer (No. 62), and

The same duty as a Conveyance (No. 23) as levied by this Act for a consideration equal to the value of the

property as set forth in such instrument.

HIRING AGREEMENT or Agreement for Service—See Agreement (No. 5).

34. INDEMNITY BOND

INSPECTORSHIP-Deed—See Composition-deed (No. 22).

35. LEASE, including an under-lease or sub-lease and any agreement to let or sub-let—

(a) where by such lease the rent is fixed and no premium is paid or delivered—

(i) where the lease purports to be for a term of less than one year;

(ii) where the lease purports to be for a term of not less than one year, but not more than five years;

(iii) where the lease purports to be for a term exceeding five years and not exceeding ten year;

(iv) where the lease purports to be for a term exceeding 10 years, but not exceeding 20 years;

(v) where the lease purports to be for a term exceeding 20 years, but not exceeding 30 years;

(vi) where the lease purports to be for a term exceeding 30 years, but not exceeding 100 years;

(vii) where the lease purports to be for a term exceeding 100 years or in perpetuity;

The same duty as a Security Bond (No. 57) for the same amount.

The same duty as a Bond (No. 15) for the whole amount payable or deliverable under such lease.

The same duty as a Bond (No. 15) for the amount or value of the average annual rent reserved.

The same duty as a Conveyance (No. 23) as levied by this Act, for a consideration equal to the amount or value of the average annual rent reserved.

The same duty as a Conveyance (No. 23) as levied by this Act, for a consideration equal to twice the amount or value of the ave. age annual rent reserved.

The same duty as a Conveyance (No. 23) as levied by this Act, for a consideration equal to three times the amount or value of the average annual rent reserved.

The same duty as a Conveyance (No. 23) as levied by this Act, for a consideration equal to four times the amount or value of the average annual rent reserved.

The same duty as a Conveyance (No. 23) as levied by this Act, for a consideration equal in the case of a lease

(viii) where the lease does not purport to be for any definite term;

(b) where the lease is granted for a fine or premium or for money advanced and where no rent is reserved;

(c) where the lease is granted for a fine or premium or for money advanced, in addition to rent reserved.

granted solely for agricultural purposes to 1/10th and in any other case to 1/6th of the whole amount of rents which would be paid or delivered in respect of the first fifty years of lease.

The same duty as a Conveyance (No. 23) as levied by this Act, for a consideration equal to three times the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.

The same duty as a Conveyance (No. 23) as levied by this Act, for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.

The same duty as a Conveyance (No. 23) as levied by this Act, for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease, if no fine or premium or advance had been paid or delivered:

Exemption

Lease, executed in the case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink) without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees.

In this exemption a lease for the purposes of cultivation shall include a lease of lands for cultivation together with a homestead or tank.

Explanation.—When a lessee undertakes to pay any recurring charge, such as

Provided that, in any case when an agreement to lease is stamped with the ad valorem stamp required for a lease and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed one rupee and fifty paise.

Goverment revenue, the land-lords share of cesses, or the owner's share of municipal rates or taxes, which is by law recoverable from the lessor, the amount so agreed to be paid by the lessee shall be deemed to be part of the rent.	
36. LETTER OF ALLOTMENT OF SHARES	Thirty paise.
37. LETTER OF CREDIT	As in Schedule I.
LETTER OF GUARANTEE—See Agreement (No. 5).	
38. LETTER OF LICENSE, that is to say, any agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.	Thir.y rupees.
39. MEMORANDUM OF ASSOCIATION OF A COMPANY—	
(a) if accompanied by articles of association under sections 26, 27 and 28 of the Companies Act, 1956;	Sixty rupees.
(b) if not so accompanied.	One hundred and fifty rupees.
<i>Exemption</i>	
Memorandum of any association not formed for profit and registered under section 25 of the Companies Act, 1956.	
40. MORTGAGE-DEED, not being an agreement relating to Deposit of Title-deeds, Pawn or Pledge (No. 6), Bottomry Bond (No. 16), Mortgage of a Crop (No. 41), Respondentia Bond (No. 56), or Security Bond (No. 57),—	
(a) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given—	
where the amount secured by such instrument does not exceed Rs. 50;	One rupee, fifteen paise.
where it exceeds Rs. 50, but does not exceed Rs. 100;	Two rupees, twenty-five paise.
where it exceeds Rs. 100, but does not exceed Rs. 200;	Four rupees, fifty paise.
where it exceeds Rs. 200, but does not exceed Rs. 300;	Six rupees, seventy-five paise.
where it exceeds Rs. 300, but does not exceed Rs. 400;	Nine rupees.
where it exceeds Rs. 400, but does not exceed Rs. 500;	Eleven rupees, twenty-five paise.

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where it exceeds Rs. 500, but does not exceed Rs. 600;	Thirteen rupees, fifty paise.
where it exceeds Rs. 600, but does not exceed Rs. 700;	Fifteen rupees, seventy-five paise.
where it exceeds Rs. 700, but does not exceed Rs. 800;	Eighteen rupees.
where it exceeds Rs. 800, but does not exceed Rs. 900;	Twenty rupees, twenty-five paise.
where it exceeds Rs. 900, but does not exceed Rs. 1,000;	Twenty-two rupees, fifty paise.
and for every Rs. 500 or part thereof in excess of Rs. 1,000;	Eleven rupees, twenty-five paise.
(b) when possession is not given or agreed to be given as aforesaid;	The same duty as a Bond (No. 15) for the amount secured by such deed.

Explanation.—A mortgagor who gives to the mortgagee a power of Attorney to collect rents or a lease of the property mortgaged or part thereof is deemed to give possession within the meaning of this article;

(c) when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above-mentioned purposes where the principal or primary security is duly stamped—

for every sum secured not exceeding Rs. 1,000; One rupee, fifteen paise.
and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000. One rupee, fifteen paise.

Exemptions

(1) Instruments, executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties as security for the repayment of such advances.

41. MORTGAGE OF A CROP, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—

(a) when the loan is repayable not more than three months from the date of the instrument—

for every sum secured not exceeding Rs. 200; Fifteen paise.

and for every Rs. 200 or part thereof secured in excess of Rs. 200;	Fifteen paise.
(b) when the loan is repayable more than three months, but not more than eighteen months, from the date of the instrument—	
for every sum secured not exceeding Rs. 100;	Thirty paise.
and for every Rs. 100 or part thereof secured in excess of Rs. 100.	Thirty paise.
42. NOTARIAL ACT,—that is to say, any instrument, endorsement, note, attestation certificate or entry not being a Protest (No. 50) made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public.	Four rupees, fifty paise.
See also Protest of Bill or Note (No. 50).	
43. NOTE OR MEMORANDUM, sent by a Broker or Agent to his Principal intimating the purchase or sale on account of such Principal—	
(a) of any goods exceeding in value twenty rupees;	Forty paise.
(b) of any stock or marketable security exceeding in value twenty rupees.	Subject to a maximum of thirty rupees, thirty paise, for every Rs. 10,000 or part thereof of the value of the stock or security.
44. NOTE OF PROTEST BY THE MASTER OF A SHIP.	Seventy-five paise.
45. PARTITION, Instrument of as defined by section 2(15).	The same duty as a Bond (No. 15) for the amount of the value of the separated share or shares of the property.
	<i>N.B.</i> —The largest share remaining after the property is partitioned (or, if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated:

Provided always that—

- (a) when an instrument of partition containing an agreement to divide property in severally is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than one rupee, fifteen paise;
- (b) where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than ten times the annual revenue;
- (c) where a final order for effecting a partition passed by any Revenue Authority or any Civil Court or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and an instrument of partition in pursuance of such orders or award is subsequently executed, the duty on such instrument shall not exceed one rupee, fifteen paise.

46. PARTNERSHIP—

A—Instrument of—

- (a) where the capital of the partnership does not exceed Rs. 500; Three rupees, seventy-five paise.
- (b) in any other case. Twenty-two rupees, fifty paise.

B—Dissolution of—

PAWN OR PLEDGE—See Agreement relating to Deposit of Title-deeds, Pawn or Pledge (No. 6). Fifteen rupees.

47. POLICY OF INSURANCE	As in Schedule I.
48. POWER OF ATTORNEY [as defined by section 2(21)], not being a Proxy (No. 52),—	
(a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents;	One rupee, fifty paise.
(b) when required in suits or proceedings under Presidency Small Cause Courts Act, 1882;	One rupee, fifty paise.
(c) when authorising one person or more to act in a single transaction other than the case mentioned in clause (a);	Three rupees.
(d) when authorising not more than five persons to act jointly and severally in more than one transaction or generally;	Fifteen rupees.
(e) when authorising more than five but not more than ten persons to act jointly and severally in more than one transaction or generally;	Thirty rupees.
(f) when given for consideration and authorising the attorney to sell any immovable property;	The same duty as a Conveyance (No. 23) as levied by this Act for the amount of consideration.
(g) in any other case.	Three rupees for each person authorised.
	<i>N.B.—The term “registration” includes every operation, incidental to registration under the Indian Registration Act, 1908.</i>
<i>Explanation.—For the purpose of this article more persons than one when belonging to the same firm shall be deemed to be one person.</i>	
49. Promissory Note	As in Schedule I.
50. PROTEST OF BILL OR NOTE, that is to say, any declaration in writing made by a Notary Public or other person lawfully acting as such, attesting the dishonour of a bill of exchange or promissory note.	Three rupees.
51. PROTEST BY THE MASTER OF A SHIP	As in Schedule I.
52. PROXY	As in Schedule I.

53. RECEIPT	As in Schedule I.
54. RECONVEYANCE OF MORTGAGED PROPERTY—	
(a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000;	The same duty as a Conveyance (No. 23) as levied by this Act, for the amount of such consideration as set forth in the reconveyance.
(b) in any other case—	
(i) if the reconveyance relates to immovable property situate within a Municipality, Cantonment Board, Small Town or Notified Area;	Forty-five rupees.
(ii) in other cases.	Thirty rupees.
55. RELEASE, that is to say, any instrument (not being such a release as is provided for by section 23-A) whereby a person renounces a claim upon another person or against any specified property—	
(a) if the amount or value of the claim does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount or value as set forth in the Release.
(b) in any other case.	Fifteen rupees.
56. RESPONDENTIA BOND, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.	The same duty as Bottomry Bond (No. 16) for the amount of the loan secured.
REVOCATION OF ANY TRUST OR SETTLEMENT—See Settlement (No. 58), TRUST (No. 64).	
57. SECURITY-BOND OR MORTGAGE DEED, executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof, or executed by a surety to secure the due performance of a contract or the due discharge of a liability—	
(a) when the amount secured does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for the amount secured.
(b) in any other case.	Fifteen rupees.

Exemptions

Bond or other instrument when executed—

(a) by any person for the purpose of

guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility, shall not be less than a specified sum per mensem;

- (b) by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturist's Loans Act, 1884, or by their sureties, as security for the repayment of such advances;
- (c) by officers of Government or their sureties to secure the due execution of an office, or the due accounting for money or other property received by virtue thereof.

58. SETTLEMENT—

A—Instrument of (including a deed of power).

The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property settled as set forth in such settlement.

Exemption

Deed of dower executed on the occasion of a marriage between Muhammadans.

B—Revocation of—

See also Trust (No. 64).

The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument of revocation but not exceeding thirty rupees.

59. SHARE WARRANTS to bearer issued under the Companies Act, 1956.

One-and-a-half times the duty payable on a mortgage-deed-with possession [No. 40(a)] for the amount equal to the nominal amount of the shares specified in the warrant.

Exemptions

Share warrant when issued by a company in pursuance of the Companies Act, 1956, section 114, to have effect only upon payment, as composition for that duty, to the Collector of stamp revenue of—

- (a) one-and-a-half per centum of the whole subscribed capital of the company; or

(b) if any company which has paid the said duty or composition in full, subsequently issues an addition to its subscribed capital—one-and-a-half per centum of the additional capital so issued.	
60. SHIPPING ORDER	Fifteen paise.
61. SURRENDER OF LEASE—	
(a) when the duty with which the lease is chargeable does not exceed ten rupees;	The duty with which such lease is chargeable.
(b) in any other case.	Fifteen rupees.

Exemption

Surrender of lease, when such lease is exempted from duty.	
62. TRANSFER (whether with or without consideration)—	
(a) of shares in an incorporated company or other body corporate;	As in Schedule I.
(b) of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8;	One-half of the duty payable on a debenture (No. 27) for a consideration equal to the face amount of the debenture.
(c) of any interest secured by a bond, mortgage-deed or policy of insurance;	One-half of the duty with which such bond, mortgage-deed or policy of insurance is chargeable subject to a maximum of seventy-five rupees.
(d) of any property under the Administrator-General's Act, 1913, section 25;	Twenty-two rupees, fifty paise.
(e) of any trust-property without consideration from one trustee to another trustee, or from a trustee to a beneficiary.	Eleven rupees, twenty-five paise or such smaller amount as may be chargeable under clauses (a) to (c) of this article.

Exemptions

Transfers by endorsement—

- (a) of a bill of exchange, cheque or promissory note;
- (b) of a bill of lading, delivery order, warrant for goods, or other mercantile document of title to goods;
- (c) of a policy of insurance;
- (d) of securities of the Central Government.

See also section 8.

63. TRANSFER OF LEASE by way of assignment, and not by way of under-lease.

The same duty as a Conveyance (No. 23) as levied by this Act, for a consideration equal to the amount of the consideration for the transfer.

Exemption

Transfer of any lease exempt from duty.

64. TRUST—

A—Declaration of—of, or concerning any property when made by any writing not being a Will.

The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned, as set forth in the instrument, but not exceeding forty-five rupees.

B—Revocation of—of, or concerning any property when made by any instrument other than a Will.

The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned, as set forth in the instrument, but not exceeding thirty rupees.

See also Settlement (No. 58) Valuation.

See Appraisement (No. 8) Vakil—See entry as Vakil (No. 30).

65. WARRANT FOR GOODS, that is to say, any instrument evidencing the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.

One rupee, fifteen paise.

STATEMENT OF OBJECTS AND REASONS

At present, the Indian Stamp Act, 1899 (Central Act 2 of 1899), which consolidates and amends the law relating to stamps, is in force with different amendments and provisions of law in the two different areas of Himachal Pradesh, viz. the areas transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 and the areas comprised in Himachal Pradesh immediately before 1-11-1966. In the former, the amendments as affected in the said Act by the Punjab Acts No. 8 of 1922, 34 of 1960, 24 of 1964 and 6 of 1965 are in force, while in the latter, Schedule 1-A to the Indian Stamp Act, 1899 (2 of 1899) as in force in the State of Punjab on the 28th day of November, 1960 with certain modifications as contained in Government of India, Ministry of Home Affairs notification No. G.S.R. 518 (F.4/4/63-UTL-65), dated 18th March, 1964 and the amendments as affected by Himachal Pradesh Act, (No. 4 of 1953) are in force. With a view to bringing about uniformity in the matter of such law, it has been considered necessary to repeal the Punjab amending Acts aforesaid and to enact a unified amending law for the whole of Himachal Pradesh. This Bill seeks to achieve the aforesaid object.

SIMLA:
The 7th April, 1969.

LAL CHAND PRARTHI,
Revenue Minister.

FINANCIAL MEMORANDUM

Under Schedule I-A, higher rates of stamp duty will be charged in the old areas of Himachal Pradesh which will yield more revenue to Himachal Pradesh Government, to the extent of about Rs. 5 lacs. There will, however, be no additional expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

**RECOMMENDATIONS OF THE ADMINISTRATOR UNDER
SECTION 23 OF THE GOVERNMENT OF UNION TERRITORIES
ACT, 1963**

(Revenue Department File No. 17-13/66-Rev. I)

The Administrator having been informed of the subject matter of the Indian Stamp (Himachal Pradesh Amendment) Bill, 1969, recommends under section 23 of the Government of Union Territories Act, 1963, the introduction of the Bill in the Legislative Assembly.

Bill No. 19 of 1969

**THE HIMACHAL PRADESH SHOPS AND COMMERCIAL
ESTABLISHMENTS BILL, 1969**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A
BILL

to provide for the regulation of conditions of work and employment in shops and commercial establishments.

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Shops and Commercial Establishments Act, 1969.

Short title,
extent,
commencement and
application.

(2) It extends to the whole of the Union territory of Himachal Pradesh.

(3) It shall come into force at once.

(4) It shall apply in the first instance in the areas specified in the Schedule, but the Government may, by notification, direct that it shall also apply in such other area and with effect from such date as may be specified in the notification.

2. (1) In this Act, unless the context otherwise requires:—

Definitions

(i) "closed" means not open for the service of any customer or for any other purpose whatsoever relating to business;

(ii) "close-day" means the day of the week on which a shop or commercial establishment remains closed;

(iii) "closing-hour" means the hour at which a shop or commercial establishment closes;

(iv) "commercial establishment" means any premises wherein any business, trade or profession is carried on for profit, and includes journalistic or printing establishment and premises in which business of banking, insurance, stocks and shares, brokerage or produce exchange is carried on or which is used as hotel, restaurant, boarding or eating house, theatre, cinema or other place of public entertainment or any other place which the Government may declare, by notification, to be a commercial establishment for the purposes of this Act;

(v) "day" means a period of twenty-four hours beginning at midnight: Provided that in the case of any employee whose hours of work extend beyond midnight, "day" means the period of twenty-four hours beginning from the time when such employment commences;

- (vi) "employee" means any person employed, whether directly or otherwise, about the business of an establishment for the owner or occupier thereof even though he receives no reward for his labour and includes, for the purpose of any matter regulated by this Act, a person discharged or dismissed whose claims have not been settled in accordance with this Act, and persons employed in any factory but not governed by the Factories Act, 1948;
- (vii) "employer" means a person having charge of or owning or having ultimate control over the affairs of an establishment and includes members of the family of an employer, a manager, agent or other person acting in the general management or control of the establishment;
- (viii) "establishment" means a shop or a commercial establishment;
- (ix) "factory" has the meaning assigned to it in the Factories Act, 1948;
- (x) "family" in relation to an employer, means:—
 - (i) spouse;
 - (ii) children and step-children; and
 - (iii) parents, sisters and brothers if residing with and wholly dependent upon him;
- (xi) "festival" means any festival which the Government may, by notification, declare to be a festival for the purposes of this Act;
- (xii) "Government" means Administrator of the Union territory of Himachal Pradesh appointed by the President under article 239 of the Constitution of India;
- (xiii) "hours of work" or "working hours" means the time during which the persons employed are at the disposal of the employer exclusive of any interval allowed for rest and meals;
- (xiv) "inspector" means an inspector appointed under this Act;
- (xv) "leave" means leave as provided for in section 14;
- (xvi) "manager" in relation to an establishment where five or more persons are employed or an establishment whose owner does not ordinarily carry on the business personally, means a person declared as such by the employer in the prescribed manner;
- (xvii) "night" means a period of twelve consecutive hours which shall include the interval between 8 P.M. to 6 A.M.;
- (xviii) "notification" means a notification published under proper authority in the Official Gazette;
- (xix) "Official Gazette" means Rajpatra, Himachal Pradesh;
- (xx) "opened" means opened for the service of any customer or for any business connected with the establishment;
- (xxi) "opening hour" means the hour at which an establishment opens;
- (xxii) "prescribed" means prescribed by rules made under this Act;
- (xxiii) "quarter" means a period of three months commencing on the

Central Act
63 of 1948.

Central Act
63 of 1948.

first day of January, first day of April, first day of July or first day of October, every year;

(xxiv) "retail trade or business" includes the business of a barber or hair dresser, the sale of refreshments or intoxicating liquors, and retail sales by auction;

(xxv) "register of establishments" means a register maintained for the registration of establishments under this Act;

(xxvi) "registration certificate" means a certificate showing the registration of an establishment;

(xxvii) "shop" means any premises where any trade or business is carried on or where services are rendered to customers, and includes offices, store-rooms, godowns, sale depots or ware houses, whether in the same premises or otherwise, used in connection with such trade or business, but does not include a commercial establishment or a shop attached to a factory where the persons employed in the shop are allowed the benefits provided for workers under the Factories Act, 1948;

(xxviii) "spread-over" means the period between the commencement and the termination of work of an employee on any day;

(xxix) "wages" shall have the meaning assigned to it in the Payment of Wages Act, 1936;

(xxx) "wage period" means the period after which the wages of an employed person shall be paid;

(xxxi) "week" means the period between midnight on Saturday and midnight on the following Saturday;

(xxxii) "young person" means a person who has attained the age of fourteen years but has not attained the age of eighteen years; and

(xxxiii) "year" means any year commencing on the 1st day of April.

(2) For the purposes of this Act, any employment in the service of the employer of an establishment whether within the establishment or outside it, which relates to or is connected with or is ancillary to the business carried on at the establishment shall be deemed to be employment about the business of the establishment.

3. Nothing in this Act shall apply to—

(a) offices of or under the Central Government or any State Government or the Government of Himachal Pradesh (except commercial undertakings), the Reserve Bank of India, any railway administration or any local authority;

(b) any railway service, air service, water transport service, tramway, postal, telegraph or telephone service, any system of public conservancy or sanitation or any industry, business or undertaking which supplies power, light or water to the public;

(c) railway dining cars;

(d) offices of lawyers;

Act not applicable to certain establishments and persons.

- (e) any person employed about the business of any establishment mentioned in clauses (a) to (d);
- (f) any person whose hours of employment are regulated by or under the Factories Act, 1948, except the provisions of sub-sections (3), (4) and (5) of section 7 of this Act in so far as they relate to employment in a factory;
- (g) any person whose work is inherently intermittent;
- (h) establishments of stamp vendors and petition writers.

Provisions
of section 9
and sub-
section (1)
of section
10 not appli-
cable to
certa n
establis-
ments.

4. (1) Nothing in section 9 and sub-section (1) of section 10 shall apply to:—

- (a) clubs, hotels, boarding houses, stalls and refreshment rooms at railway stations;
- (b) shops of barbers and hair-dressers;
- (c) establishments dealing exclusively in meat, fish, confectionery, poultry, eggs, dairy produce (except ghee), bread, sweets, chocolates, ice, ice-cream, cooked food, fresh fruit, flowers or vegetables;
- (d) shops dealing exclusively in medicines or medical or surgical requisites or appliances and establishments for the treatment or care of the sick, infirm, destitute or mentally unfit;
- (e) shops dealing in articles required for funeral burials or cremations;
- (f) shops dealing exclusively in pans (betel leaves), biris or cigarettes, or liquid refreshments sold retail for consumption on the premises;
- (g) shops dealing exclusively in newspapers or periodicals, editing and despatching sections of newspaper offices and offices of news agencies;
- (h) places of public entertainment except cinema houses;
- (i) establishments for the retail sale of petrol and petroleum products used for transport;
- (j) shops in regimental institutes, garrison shops and troop canteens in cantonments;
- (k) tanneries;
- (l) establishments engaged in retail trade carried on at an exhibition or show, if such retail trade is subsidiary or ancillary only to the main purpose of the exhibition or show;
- (m) oil mills not registered under the Factories Act, 1948;
- (n) brick and lime kilns;
- (o) commercial establishments engaged in the manufacture of bronze and brass utensils so far as it is confined to the process of melting in furnaces;
- (p) saltpetre refineries;
- (q) establishments of commercial colleges of short-hand or type-writing and other educational academies;
- (r) booking offices of passenger and goods transport companies;

Central Act
63 of 1948

Central Act
63 of 1948

- (s) establishments dealing exclusively in green and dry fodder and chaff cutting; and
- (t) cycle stands, and cycle repairs shops.

(2) Nothing in sub-section (1) of section 10 shall apply to:—

- (i) establishments of cinema houses;
- (ii) establishments dealing in hides and skins;
- (iii) ice factories;
- (iv) establishments engaged exclusively in repairs of cycles or motor vehicles or the service of motor vehicles (not being an establishment dealing in cycles or motor vehicles or exclusively in spare parts thereof);
- (v) establishments dealing exclusively in providing on hire tents, chhauldares and other articles such as crockery, furniture, loud-speakers, gas-lights and fans required for ceremonial purposes; and
- (vi) establishments dealing exclusively in the retail sale of phullian, murmara, sugar coated gram, reories or other similar commodities.

5. (1) Notwithstanding anything contained in section 3 or section 4, the Government may, if it considers it necessary in the public interest so to do, by notification, declare that any class of establishments or persons specified therein shall not be exempted from the operation of such provisions of this Act as may be specified in the notification and that the provisions of this Act specified in such notification shall apply to such class of establishments or persons, as the case may be.

Power of Government to extend provisions of the Act.

(2) Every notification issued under sub-section (1) shall, as soon as possible after it is issued, be laid before the Legislative Assembly.

6. (1) The total number of hours worked by a young person employed about the business of an establishment, exclusive of interval for meals and rest, shall not exceed thirty hours in any one week or five hours in any one day.

Conditions of employment for young persons.

(2) A young person employed about the business of an establishment shall not be employed continuously for more than three hours without an interval of at least half an hour for meals or rest.

(3) Government may prescribe further conditions in respect of the employment of young persons employed about the business of establishments or any class of them, including, if it thinks fit, conditions with respect to the daily period of employment of those persons, and no such person shall be employed otherwise than in accordance with those conditions.

(4) In the case of any contravention of, or failure to comply with, the provisions of this section, the employer shall be liable, on conviction, to a fine which shall not be less than fifty rupees but which may extend to two hundred rupees.

(5) Where in proceedings for an offence under this section, the person in respect of whom the offence was committed was a young person, and

he appears to the court to have been at the date of the commission of the offence a young person, he shall, for the purposes of this Act, be presumed at that date to have been a young person unless the contrary is proved.

Hours of employment.

7. (1) Subject to the provisions of this Act, no person shall be employed about the business of an establishment for more than forty-eight hours in any one week and nine hours in any one day.

(2) On occasions of seasonal or exceptional pressure of work, a person employed in an establishment may be employed about the business of the establishment in excess of the working hours specified in sub-section (1):

Provided that—

- (a) the total number of overtime hours worked by an employee does not exceed fifty within a period of any one quarter; and
- (b) the persons employed overtime shall be paid remuneration at twice the rate of his normal wages calculated by the hour.

Explanation.—For the purposes of clause (b) of the proviso to this sub-section and of sections 10 and 12, “normal wages” means basic wages plus such allowances including the cash equivalent of the advantages accruing through the concessional sale to workers of foodgrains and other articles as any worker is for the time being entitled to, but does not include bonus.

(3) No employer shall, on any day or in any week, employ about the business of the establishment any person who has been previously employed on that day or in that week in another establishment or a factory for a longer period which together with the time during which he has been previously employed on that day, or in that week in such other establishment or factory, exceed the number of hours permitted by this Act.

(4) In any proceedings against the employer of an establishment for a contravention of the provisions of sub-section (3), it shall be a defence to prove that the employer did not know and could not with reasonable diligence ascertain that the person was previously employed by the employer of the other establishment or factory.

(5) No person shall work about the business of an establishment or two or more establishments or an establishment and a factory in excess of the period during which he may be lawfully employed under this Act.

Intervals for rest or meals.

8. (1) Subject to the provisions of section 6, no employee except a chowkidar, watchman or guard, shall be allowed to work in an establishment for more than five hours before he has had an interval for rest of at least half an hour:

Provided that the Government may, by notification, fix such interval for rest in respect of any class of establishments for the whole of the Himachal Pradesh or any part thereof as it may consider necessary.

(2) The period of work of an employee in an establishment shall be so fixed that, inclusive of his interval for rest, the spread-over shall not be more than ten hours in a day.

9. The Government shall, by notification, fix the opening and closing hours of all classes of establishment and different opening and closing hours may be fixed for different classes of establishments and for different areas:

Provided that the Government may allow an establishment attached to a factory to observe such opening and closing hours as the Government may direct.

10. (1) Save as otherwise provided by this Act, every establishment shall remain closed on such day in a week as may be prescribed:

Provided that, in the case of an establishment attached to a factory, the employer may substitute the close day of such establishment so as to correspond to the substituted close-day of the factory in the same manner and subject to the same conditions as are laid down in this behalf in the Factories Act, 1948.

(2) (i) The employer of an establishment shall in the prescribed form intimate to the prescribed authority the working hours, the day in a week referred to in clause (b) of section 11 and the period of interval of the employed person, within fifteen days of the date of registration of the establishment.

(ii) The employer of an establishment may change the working hours and the period of interval once in a quarter by giving intimation in the prescribed form to the prescribed authority at least fifteen days before the change is to take place.

(3) Notwithstanding anything contained in sub-section (1), the employer of an establishment may open his establishment on the close-day if:—

- (a) such day happens to coincide with a festival; and
- (b) employees required to work on that day are paid remuneration at double the rate of their normal wages calculated by the hour.

11. No employee shall be allowed or required to work:—

- (a) on a close-day, in any establishment which is required to observe a close-day;
- (b) on one day in a week, in any other establishment; and
- (c) before the opening hour of the establishment and after the closing hour of the establishment:

Provided that a watchman may be allowed or required to work on an off day under this section, if he is allowed another off day in the week.

12. Every employee in an establishment shall be allowed:—

- (a) a holiday with wages on the Independence Day, Republic Day and Mahatma Gandhi's birthday; and
- (b) three other holidays with wages in a year in connection with such festivals as the Government may declare from time to time by notification:

Provided that an employee required to work on any such holiday shall be entitled to remuneration at twice the rate of his normal wages calculated by the hour.

Opening and closing hours.

Close-day

Central Act 63 of 1948.

Employees off day in a week.

Holidays.

Registration
of establish-
ments.

13. (1) Within the period specified in sub-section (3), the employer of every establishment shall send to the prescribed authority a statement in the prescribed form accompanied by such fees as may be prescribed and containing:—

- (a) the name of the employer and the manager, if any;
- (b) postal address of the establishment;
- (c) the name, if any, of the establishment;
- (d) number of persons employed in the establishment; and
- (e) such other particulars as may be prescribed.

(2) (i) On receipt of the statement and the prescribed fee, the prescribed authority shall, on being satisfied about the correctness of the statement, register the establishment in the register of establishments in such manner as may be prescribed and shall issue in the prescribed form a registration certificate to the employer. The registration certificate shall, on demand by the Inspector be shown to him by the employer.

(ii) The registration certificate shall on payment of the prescribed fee, be renewable by the 31st March, every year. Thirty days grace time shall however, be allowed for the renewal of the certificate.

(3) Within thirty days from the date mentioned in column 2 of the Table below in respect of an establishment mentioned in column 1 thereof, the statement together with the prescribed fee shall be sent to the prescribed authority under sub-section (1):—

THE TABLE

Establishment 1	Date from which the period of 30 days is to commence 2
(i) Establishments existing in areas to which this Act applies or to which it is made applicable subsequently. (ii) New establishments in such areas	The date on which this Act comes into force or the date on which this Act is made applicable subsequently as the case may be. The date on which the establishment commences its work.

(4) It shall be the duty of the employer to notify to the prescribed authority in the prescribed form any change in respect of any information contained in his statement under this section within seven days after the change has taken place and the prescribed authority shall on receiving such notice and on being satisfied about its correctness make the change in the register of establishments in accordance with such notice and shall amend the registration certificate, if necessary.

(5) The employer shall, within ten days of his closing the establishment, notify to the prescribed authority in writing accordingly and the prescribed authority shall, on receiving the information and on being satisfied about

its correctness, remove the name of such establishment from the register of establishment and cancel the registration certificate.

14. (1) (a) Every employee who has been in employment for not less than twenty days in a year shall be entitled to one day's earned leave for every such twenty days: Leave

Provided that a young person shall be entitled one day's earned leave for every fifteen days of employment.

(b) If an employee is discharged or dismissed from or leaves service, he shall be entitled to wages in lieu of the unavailed leave at the rates laid down in clause (a).

(c) In calculating leave under this section, fraction of half a day or more shall be treated as one day's leave, and fraction of less than half a day shall be ignored.

(d) If an employee does not in any one year take the whole of the leave allowed to him under clause (a), any leave not taken by him shall be carried forward and added to the leave to be allowed to him in the succeeding year:

Provided that:—

- (i) subject to any specific agreement between the employer and the employee, the total number of days of leave that may be carried forward to a succeeding year shall not exceed forty in the case of a young person or thirty in any other case;
- (ii) the provisions of this section shall not operate to the prejudice of any rights to which an employee may be entitled under any other law or under the terms of any award, agreement or contract of service;
- (iii) where such award, agreement or contract of service provides for a longer leave with wages or weekly holidays than those provided under this section, the employee shall be entitled to such longer leave or weekly holiday as the case may be.

(2) Leave provided in clause (a) of sub-section (1) shall not be refused except for a valid reason to be communicated in writing by the employer to the employee within fifteen days of the application:

Provided that the leave so refused shall, if applied for again, be granted within thirty days of the date of the application.

(3) (a) For the purpose of computing the period during which an employee has been in employment within the meaning of clause (a) of sub-section (1), the period during which he was on leave under this section and the off days in a week referred to in section 11, shall be included.

(b) The unavailed leave of an employee shall not be taken into consideration in computing the period of any notice required to be given before discharge, removal or dismissal.

(4) Notwithstanding anything contained in the foregoing sub-sections, every employee in an establishment shall be allowed with wages seven days casual leave and seven days sick leave in a year.

Wages for
close days
and during
leave period.

15. (1) Any person employed in or about an establishment for a period of fifteen days or more shall receive, for every off day in a week referred to in section 11, wages at the rate of not less than the average daily wages earned by him for the days on which he worked during the week immediately preceding every such off day.

(2) For the leave allowed to him under section 14, an employee shall be paid at the rate equal to the daily average of his total full time earnings for the days on which he worked during the month immediately preceding his leave, exclusive of any overtime and bonus but inclusive of dearness allowance and the cash equivalent of the advantage accruing through the concessional sale to the employee of food grains and other articles.

(3) An employee who has been allowed leave for not less than five days in the case of a young person and four days in any other case shall, on demand, before his leave begins, be paid the wages due for the period of leave allowed.

Wage per-
iod.

16. (1) Every person responsible for the payment of wages to an employee shall fix a period in respect of which such wages shall be payable.

(2) No wage period shall exceed one month.

(3) The wages of every person employed shall be paid before the expiry of the seventh day from the date on which the wages became due.

(4) Where the employment of any person is terminated by or on behalf of the employer, the wages earned by him and the remuneration in lieu of unavailed period of due leave shall be paid before the expiry of the second working day after such termination and where an employee quits his employment on or before the next pay day:

Provided that no claim under this section shall be entertained unless it is preferred within six months from the date of its accruing except under special circumstances at the discretion of the Chief Inspector of Shops and Commercial Establishments, Himachal Pradesh.

Deduction
from wages.

17. The wages of an employee shall be paid to him without deductions of any kind except those authorised by or under the Payment of Wages Act, 1936, in so far as such deductions are applicable to the employee, and in such manner, to such extent and subject to such conditions, as are specified in that Act.

Realisation
of compen-
sation.

18. (1) In case of contravention of the provisions of section 16, if a Magistrate is satisfied that the employee has not been paid his due wages, he shall direct the employer to pay the wages along with compensation not exceeding eight times the amount of wages withheld.

(2) The amount of wages withheld and compensation payable under this section shall, for the purposes of its recovery, be deemed to be a fine imposed under this Act in addition to the penalty imposed under section 25 and shall be realised as such.

Enforcement
and inspec-
tion.

19. (1) The Government may, by notification, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act within such local limits as it may assign to them.

Central Act
4 of 1936.

(2) The Government may, by notification, appoint any person to be the Chief Inspector of Shops and Commercial Establishments who shall, in addition to the powers conferred on a Chief Inspector under this Act, exercise the powers of an Inspector throughout the Union territory of Himachal Pradesh.

(3) Subject to any rules made by the Government in this behalf, an Inspector may, within the local limits for which he is appointed:—

- (a) enter at all reasonable times and with such assistants, if any, being persons in the service of Government or of any local authority, as he thinks fit, any place which is, or which he has reason to believe to be an establishment;
- (b) make such examination of the premises and of any prescribed registers, records and notices and take on the spot or otherwise evidence of any persons, as he may deem necessary for carrying out the purposes of this Act;
- (c) exercise such other powers as may be necessary for carrying out the purposes of this Act:

Provided that no person shall be compelled under this section to answer any question or give any evidence tending to incriminate himself.

(4) Every Inspector appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

20. (1) The employer of every establishment shall, in the prescribed form and manner, keep exhibited in the establishment a notice setting forth the close-day, the working hours and the period of interval of employed persons, if any, and such other particulars as may be prescribed.

(2) The employer of any establishment, about the business of which persons are employed, shall in the prescribed form and manner, keep a record of the working hours, rest intervals and the amount of leave taken by every person employed about the business of an establishment, and particulars of all overtime employment shall be separately entered in the record.

(3) The employer of every establishment, about the business of which persons are employed, shall mark the attendance of every employee in the register maintained for the purpose within one hour of the start of duty and in the case of overtime every entry regarding the commencement or closure of overtime shall respectively be made before or after such commencement or closure.

(4) The employer of every establishment shall keep a photograph of each employee who has completed three months continuous service in the establishment:

Provided that where such employee fails to supply such photograph to the employer within fifteen days of the completion of such service, his failure so to do shall be recorded by the employer under the signature of the employee.

Records

(5) The employer of every establishment shall for the purpose of this Act maintain such other records and registers and display such other notices as may be prescribed.

(6) In case of any contravention of the foregoing provisions of this section, the employer of an establishment shall be liable, on conviction, to a fine not exceeding five rupees for every day on which the contravention occurs or continues.

(7) If any person, with intent to deceive, makes, or causes or allows to be made, in any such record, register or notice as aforesaid an entry which is to his knowledge false in any material particular, or wilfully omits or causes or allows to be omitted from any such records, register or notice an entry required to be made therein, he shall be liable, on conviction, to imprisonment for a term not exceeding three months or to a fine which shall not be less than twenty-five rupees but which may extend to two hundred rupees, or to both.

21. (1) It shall be the duty of every employer of an establishment to make available for inspection of such officer, as may be prescribed, all accounts or other records required to be kept for the purposes of this Act and to give to such officer any other information in connection therewith as may be required.

(2) Whoever contravenes the provisions of sub-section (1) or wilfully obstructs the inspecting authority in the exercise of the powers under this Act or conceals or prevents any employee in an establishment from appearing before or being examined by the authority shall be liable, on conviction, to a fine which shall not be less than twenty-five rupees and may extend to two hundred rupees.

22. (1) No employee shall be removed from service unless and until one month's previous notice or wages in lieu thereof has been given to him:

Provided that—

(a) no employee shall be entitled to such notice or wages in lieu thereof if he is removed on account of misconduct, after giving him an opportunity to explain the charge or charges against him in writing;

(b) no employee shall be entitled to one month's notice or wages in lieu thereof unless and until he has been in the service of the employer continuously for a period of three months.

(2) In any case instituted for a contravention of the provisions of sub-section (1), if a Magistrate is satisfied that an employee has been removed without reasonable cause, the Magistrate shall, for reasons to be recorded in writing, award compensation to the employee equivalent to two month's wages:

Provided that no such claim shall be entertained unless it is preferred by the employee within six months from the date of his removal.

(3) The amount payable as compensation under this section shall be in addition to, and recoverable as, fine payable under section 25.

Inspection
of registers
and calling for information.

Notice of removal.

(4) No person who has been awarded compensation under this section shall be entitled to institute a civil suit in respect of the same claim.

23. (1) No employee, who has been in the service of the employer continuously for a period of three months, shall terminate his employment unless he has given to his employer ten days previous notice or wages in lieu thereof.

Notice by employee.

(2) Where an employee contravenes the provisions of sub-section (1), his employer may forfeit his unpaid wages for a period not exceeding ten days.

24. Save as otherwise provided by any law for the time being in force, it shall not be lawful in any locality to carry on in any place not being an establishment, retail trade or business of any class at anytime if it is unlawful in that locality to keep an establishment open for the purpose of such retail trade or business, and if any person carries on any trade or business in contravention of this section, this Act shall apply as if he were the employer of the establishment which was being kept open in contravention of this Act.

Provisions as to trading elsewhere than in establishment.

25. Subject to the other provisions of this Act, whoever contravenes any of the provisions of this Act, or the rules made thereunder and no penalty has been provided for such contravention in this Act, shall be liable, on conviction, to a fine not exceeding one hundred rupees for the first offence, and three hundred rupees for every subsequent offence:

Penalties.

Provided that the fine in respect of every subsequent offence within the same year shall not be less than one hundred rupees in any case.

26. No suit, prosecution or other legal proceeding shall lie against any public servant or any other person in the service of the Central or State Government, and the Government of Himachal Pradesh, acting under direction of any such public servant, for anything in good faith done or intended to be done in pursuance of the provisions of this Act or of any rule made thereunder.

Protection of officers and their agents from personal liability.

27. The Government may, if it considers it necessary in the public interest so to do, by notification, exempt for any period it considers desirable any establishment or class of establishments from the operation of all or any of the provisions of this Act.

Power to grant exemptions.

28. No child who has not completed the age of fourteen years shall be employed in any establishment.

Prohibition of employment of children.

29. (1) No woman shall be required or allowed to work whether as an employee or otherwise in any establishment during night:

Conditions of employment of women.

Provided that nothing in this sub-section shall apply to an establishment which is engaged in the treatment or care of the sick, the infirm, the destitute or the mentally unfit.

(2) No employer of any establishment shall knowingly employ a woman and no woman shall engage in employment in any establishment during six weeks following the day of her confinement or miscarriage.

(3) The Government may prescribe further conditions in respect of employment of women employed about the business of establishments or any class of them, including, if it thinks fit, conditions with respect to the daily period of employment, leave and other matters, and no woman shall be employed otherwise than in accordance with these conditions.

Maternity benefit.

30. (1) Every woman employed in an establishment who has been continuously employed in that establishment or in establishments belonging to the employer of that establishment for a period of not less than six months preceding the date of her delivery shall be entitled to receive, and the employer shall be liable to make to her, a payment of maternity benefit which shall be prescribed by the Government for every day during the six weeks immediately preceding and including the day of her delivery and for each day of six weeks following her delivery:

Provided that no such payment shall be made for any day on which she attends work and receives payment therefor during the six weeks preceding her delivery.

(2) The manner in which the maternity benefit shall be payable may be prescribed by the Government.

Bar of legal practitioners in certain proceedings.

31. Notwithstanding anything contained in the law relating to legal practitioners for the time being in force, no legal practitioner shall be permitted to appear, plead or act for the employer or the employee in any proceedings before a court, between an employer and an employee arising out of the contravention of any of the provisions of this Act.

Saving of certain rights and privileges.

32. Nothing in this Act shall affect any rights or privileges to which an employee in any establishment is entitled on the date this Act comes into force, under any other law, contract, custom or usage applicable to such establishment or any award, settlement or agreement binding on the employer and the employee in such establishment, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

Cognizance of offence.

33. No court shall take cognizance of any offence punishable under this Act or any rule made thereunder save on a complaint made by the employee concerned or by the Chief Inspector appointed under this Act or by an Inspector having jurisdiction over the area in which the establishment is situated.

Power to make rules.

34. (1) The Government may, by notification, make rules for the purpose of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the manner and form in which the registers and notices shall be kept;
- (b) the officers who may be empowered to inspect registers and call for information as required by this Act;

- (c) the agency by which and the manner in which prosecutions under this Act shall be instituted;
- (d) the form of the statement under sub-section (1) of section 13, the particulars to be contained in such statement, the manner in which registration is to be made under sub-section (2) of that section, the form of registration certificate, the form for notifying a change under sub-section (4) of that section and the fees payable for such registration and renewal thereof;
- (e) the authority to and the manner in which any notice required by this Act shall be given;
- (f) the conditions subject to which any exemption under this Act may be granted;
- (g) the manner in which the employer of an establishment shall keep exhibited in the premises notices setting forth the close day, closing and opening hours and other prescribed particulars;
- (h) to safeguard health, safety and welfare of the employees while on duty; and
- (i) any other matter which has to be or may be, prescribed.

(3) All rules made under this Act, shall be subject to the condition of previous publication.

(4) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to validity of anything previously done under that rule.

35. The Punjab Trade Employees Act, 1940 (as extended to the Union territory of Himachal Pradesh by Government of India late Ministry of States Notification No. 11-J, dated 18-1-1951) and the Punjab Shops and Commercial Establishments Act, 1958 as in force in the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 are hereby repealed:

Repeal and savings.

Provided that:—

- (a) every appointment, order, rule, bye-law, regulation, notification or notice made, issued or given under the provisions of any of the said Acts shall in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made issued or given under the provisions of this Act, unless and until superseded by any appointment, order, rules, bye-law, regulation, notification or notice made, issued or given under this Act;

Punjab Act
10 of 1940.

Punjab Act
15 of 1958.

Central Act
31 of 1966.

(b) any proceeding relating to the trial of any offence punishable under the provisions of any of the said Acts, shall be continued and completed as if that Act has not been repealed, but has continued in operation, and any penalty imposed in such proceeding, shall be recovered under that Act.

SCHEDULE

[See section 1 (4)]

Areas to which the Act applies in the first instance:—

<i>District</i>	<i>Name of Local area</i>
Bilaspur	1. Bilaspur. 2. Ghumarwin.
Chamba	1. Chamba. 2. Dalhousie. 3. Bakloh Cantt. 4. Chowari.
Kangra	1. Nurpur. 2. Kangra. 3. Dharamsala. 4. Palampur. 5. Yol. 6. Nagrota. 7. Una. 8. Hamirpur. 9. Maranda. 10. Nadaun. 11. Bhawarna. 12. Jawalamukhi. 13. Dehra. 14. Sujanpur Tihra. 15. Santokhgarh. 16. Chintpurni. 17. Baijnath (Paprola).
Kulu	1. Kulu. 2. Bhuntar. 3. Manali.
Mahasu	1. Solan. 2. Kasumptoni. 3. Arki.

<i>District</i>	<i>Name of Local area</i>
	4. Rohru. 5. Rampur. 6. Dhalli. 7. Theog. 8. Jubbal. 9. Kotkhai. 10. Narkanda.
Mandi	1. Mandi. 2. Sundernagar. 3. Sarkaghat. 4. Jogindernagar. 5. Pandoh. 6. Karsog.
Simla	1. Simla. 2. Dharampur. 3. Subathu. 4. Dagshai. 5. Kasauli. 6. Nalagarh. 7. Kandaghat.
Sirmur	1. Nahan. 2. Paonta. 3. Dadahu (Renuka). 4. Sarahan.

STATEMENT OF OBJECTS AND REASONS

At present, there are two different Acts in force in two different areas of Himachal Pradesh to provide for the regulation of conditions of work and employment in shops and commercial establishments. One of them is the Punjab Trade Employees Act, 1940, as in force in the areas comprised in Himachal Pradesh immediately before 1st November, 1966, and the other is the Punjab Shops and Commercial Establishments Act, 1958, which is in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966. With a view to bringing about uniformity in the matter of such law, it has been considered necessary that Himachal Pradesh should have its own law, by repealing the aforesaid Acts and this Bill seeks to achieve the aforesaid object.

SIMLA:
The 7th April, 1969.

PADAM DEV,
Forest Minister.

FINANCIAL MEMORANDUM

The provisions of this Bill will be enforced through Labour Inspectors/Shop Inspectors already appointed to enforce the provisions of Labour Legislations and as such no increase in expenditure is involved. A provision has been made for the levy of fees for the grant and renewal of certificates to be issued in respect of the registration of shops and commercial establishments under clause 13. The fee will be prescribed in the rules to be framed under the Act under clause 34(2)(d). It is expected that Government will have a revenue from these fees to the tune of about Rs. 50,000 (Rupees fifty thousand) per annum.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 34 of the Bill empowers the Government to make rules in respect of matters enumerated therein. The proposed delegation is normal in character.

RECOMMENDATIONS OF THE ADMINISTRATOR UNDER SECTION 23 OF THE GOVERNMENT OF UNION TERRITORIES ACT, 1963

[Industries Department file No. 1-11/68 (Lab)Ind].

The Administrator having been informed of the subject-matter of the Himachal Pradesh Shops and Commercial Establishments Bill, 1969, recommends under section 23 of the Government of Union Territories Act, 1963, the introduction of the Bill.

PADAM DEV,
Forest Minister.